

FLORIDA THIRD DISTRICT COURT OF APPEAL

Gary Nader v. AIM Recovery Services, Inc.

Nader · No. 3D24-0915 · Decided June 25, 2025

SUMMARY

The Florida Third District Court of Appeal affirmed the trial court’s decision in an appeal involving Gary Nader and AIM Recovery Services, Inc. The court cited authorities concerning preservation of challenges to required findings, the summary judgment burden under the new standard, and the burden of proving an affirmative defense.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Chief Judge Logue; Judge Scales; Judge Gooden
JURISDICTION	Florida Third District Court of Appeal
DECIDED	June 25, 2025
DOCKET	3D24-0915
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Circuit Court for Miami-Dade County.
STANDARD OF REVIEW	The opinion does not expressly state a standard of review. It relies on the preservation rule and the summary-judgment burdens discussed in the cited authorities.
PRECEDENTIAL VALUE	Published Florida Third District Court of Appeal opinion
PARTIES	Gary Nader, et al. v. AIM Recovery Services, Inc.

TOPICS

- preservation of error
- summary judgment
- affirmative defenses
- appellate procedure
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure
- commercial litigation

QUESTIONS PRESENTED

1. Whether the appellants preserved for appellate review a challenge to the trial court's failure to make required findings by raising that issue in a motion for rehearing.
2. What burdens apply under the new summary-judgment standard when the movant bears the burden of persuasion at trial or relies on an affirmative defense.

HOLDINGS

1. A party that does not challenge the trial court's failure to make required findings in a motion for rehearing does not preserve that issue for appellate review, and the appellate court must affirm on that basis.
2. Under Florida's new summary-judgment standard, a movant who bears the burden of persuasion at trial must initially demonstrate the absence of a genuine issue of material fact and produce evidence sufficient to support a directed verdict; the opposing party must then present evidence showing a genuine issue of material fact.
3. A party relying on an affirmative defense to defeat a claim bears the burden of showing that the defense applies and thereby precludes entry of summary judgment.

KEY QUOTATIONS

“[The appellants] did not challenge the failure of the trial court to make the required findings in their motion for rehearing. Because [the appellants] failed to do so, this issue is not preserved for appellate review, and we are compelled to affirm.”

“Under the new summary judgment standard, a movant who bears the burden of persuasion at trial has the initial burden of demonstrating the absence of a genuine issue of material fact and must produce evidence sufficient to result in a directed verdict at trial. Once this initial burden is met, the party opposing the summary judgment motion must then provide evidence showing that there exists a genuine issue of material fact.”

“[T]o the extent that [the defendants] relied on an affirmative defense to [the plaintiff's] claim, [the defendants] bore the burden of showing that the affirmative defense was applicable and, therefore, precluded entry of summary judgment.”

FACTUAL BACKGROUND

The brief per curiam opinion contains no substantive factual background concerning the underlying dispute. It indicates that the appeal involved summary judgment and an asserted failure by the trial court to make required findings.

PROCEDURAL HISTORY

The appellants appealed a circuit court order to the Florida Third District Court of Appeal. The district court affirmed, relying on preservation and summary-judgment authorities.

DISPOSITION

affirmed

CASES CITED

- Hardison v. Bank of N.Y. Mellon, 399 So. 3d 1173, 1174 (Fla. 3d DCA 2024)
- Gervas v. Gazul Producciones SL Unipersonal, 358 So. 3d 1257, 1259 n.3 (Fla. 3d DCA 2023)
- Chowdhury v. BankUnited, N.A., 366 So. 3d 1130, 1133 n.2 (Fla. 3d DCA 2023)

OPINION

Gary Nader v. AIM Recovery Services, Inc.

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed June 25, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D24-0915 Lower Tribunal No. 22-21438-CA-01 _____ Gary Nader, et al., Appellants, vs. AIM Recovery Services, Inc., Appellee. An Appeal from the Circuit Court for Miami-Dade County, Pedro P. Echarte, Jr., Judge. David J. Winker, P.A., and David J. Winker, for appellants. Stok Kon + Braverman, and Yosef Kudan and Robert A. Stok (Fort Lauderdale), for appellee. Before LOGUE, C.J., and SCALES, and GOODEN, JJ. PER CURIAM. Affirmed. See Hardison v. Bank of N.Y. Mellon, 399 So. 3d 1173, 1174 (Fla. 3d DCA 2024) (“[The appellants] did not challenge the failure of the trial court to make the required findings in their motion for rehearing. Because [the appellants] failed to do so, this issue is not preserved for appellate review, and we are compelled to affirm.”); Gervas v. Gazul Producciones SL Unipersonal, 358 So. 3d 1257, 1259 n.3 (Fla. 3d DCA 2023) (“Under the new summary judgment standard, a movant who bears the burden of persuasion at trial has the initial burden of demonstrating the absence of a genuine issue of material fact and must produce evidence sufficient to result in a directed verdict at trial. Once this initial burden is met, the party opposing the summary judgment motion must then provide evidence showing that there exists a genuine issue of material fact.”) (citation omitted); Chowdhury v. BankUnited, N.A., 366 So. 3d 1130, 1133 n.2 (Fla. 3d DCA 2023) (“[T]o the extent that [the defendants] relied on an affirmative defense to [the plaintiff’s] claim, [the defendants] bore the burden of showing that the affirmative defense was applicable and, therefore, precluded entry of summary judgment.”). 2