

THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Halpert v. Naporko

Halpert · No. No. 3D17-1721 · Decided August 23, 2017

SUMMARY

The Third District Court of Appeal of Florida dismissed Haviva Halpert’s petition for writ of common law certiorari for lack of jurisdiction. The court held that the petitioner failed to demonstrate irreparable harm, a prerequisite to certiorari relief.

CASE DETAILS

COURT	Third District Court of Appeal of Florida
WRITING FOR THE COURT	Suarez, J.; Lagoa, J.; Fernandez, J.
JURISDICTION	Florida
DECIDED	August 23, 2017
DOCKET	No. 3D17-1721
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petition for writ of common law certiorari seeking review of an order of the Circuit Court for Miami-Dade County.
STANDARD OF REVIEW	Common-law certiorari jurisdiction requires the petitioner to demonstrate that the challenged order departs from the essential requirements of law and results in irreparable harm that cannot be adequately remedied on final appeal.
PRECEDENTIAL VALUE	Published Florida Third District Court of Appeal opinion; precedential status is subject to any timely motion for rehearing noted in the opinion.
PARTIES	Haviva Halpert v. Pavel Naporko

TOPICS

writ of certiorari appellate jurisdiction appellate procedure remedies

PRACTICE AREAS

appellate procedure civil procedure remedies

QUESTIONS PRESENTED

1. Whether the district court could exercise common-law certiorari jurisdiction absent a showing of irreparable harm.

HOLDINGS

1. A petitioner seeking common-law certiorari must demonstrate irreparable harm that cannot be adequately remedied by a final appeal; because Halpert failed to make that showing, the petition was dismissed for lack of jurisdiction.

KEY QUOTATIONS

“A party seeking certiorari relief must demonstrate that the trial court’s order depart[s] from the essential requirements of law, resulting in irreparable harm that cannot be adequately remedied on final appeal.” (2)

“The establishment of irreparable harm is a condition precedent to invoking certiorari jurisdiction.” (2)

FACTUAL BACKGROUND

The opinion provides no substantive underlying facts about the dispute. It states only that Halpert petitioned for common-law certiorari review of a circuit court order and failed to demonstrate irreparable harm.

PROCEDURAL HISTORY

Halpert sought common-law certiorari review in the Third District Court of Appeal from a circuit court order. The district court dismissed the petition for lack of jurisdiction because Halpert failed to demonstrate irreparable harm.

DISPOSITION

dismissed

CASES CITED

- Millennium Diagnostic Imaging Ctr., Inc. v. State Farm Mut. Auto. Ins. Co., 129 So. 3d 1086, 1089 (Fla. 3d DCA 2013)
- Stockinger v. Zeilberger, 152 So. 3d 71, 73 (Fla. 3d DCA 2014)

OPINION

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed August 23, 2017. Not final until disposition of timely filed motion for rehearing. _____ No. 3D17-1721 Lower Tribunal No. 15-11645 _____ Haviva Halpert, Petitioner, vs. Pavel Naporko, Respondent.

On Petition for Writ of Certiorari from the Circuit Court for Miami-Dade County, Daryl E. Trawick and Marcia Del Ray, Judges. Nancy A. Hass, P.A. and Nancy A. Hass (Hollywood); Sandy T. Fox, P.A. and Sandy T. Fox, for petitioner. Pazos Law Group, P.A. and Nadia Pazos (Weston), for respondent.

Before SUAREZ, LAGOA, and FERNANDEZ, JJ. SUAREZ, J. Following review of the petition for writ of common law certiorari, it is ordered that said petition is hereby dismissed for lack of jurisdiction. Specifically, the petitioner has failed to demonstrate irreparable harm. *Millennium Diagnostic Imaging Ctr., Inc. v. State Farm Mut. Auto. Ins. Co.*, 129 So. 3d 1086, 1089 (Fla.

3d DCA 2013) (“A party seeking certiorari relief must demonstrate that the trial court's order depart[s] from the essential requirements of law, resulting in irreparable harm that cannot be adequately remedied on final appeal.”); *Stockinger v. Zeilberger*, 152 So. 3d 71, 73 (Fla. 3d DCA 2014) (“The establishment of irreparable harm is a condition precedent to invoking certiorari jurisdiction.”).