

FLORIDA THIRD DISTRICT COURT OF APPEAL

Daniel Gonzalez v. Jorge Amor

No. 3D24-1554; Lower Tribunal No. 18-36849-CA-01 · No. No. 3D24-1554 · Decided October 1, 2025

SUMMARY

The Third District Court of Appeal of Florida partially affirmed and partially reversed the dismissal of Daniel Gonzalez’s civil lawsuit. It affirmed dismissal as to the individual appellees, while removing the designation that the dismissal was with prejudice because of deficient service of process. The court reversed dismissal as to the entity appellees because they had responded to the third amended complaint and the prior order did not contain finality language establishing a jurisdictional bar.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	SCALES, C.J.; MILLER, J.; LOBREE, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	October 1, 2025
DOCKET	No. 3D24-1554
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order dismissing Gonzalez's civil lawsuit against individual and entity appellees.
STANDARD OF REVIEW	Not expressly stated; the appeal was summarily affirmed in part and reversed in part.
PRECEDENTIAL VALUE	Published
PARTIES	Daniel Gonzalez v. Jorge Amor, Daniela Peters, Carlos Peters, Gonzalo Peters, First American Title Insurance Co., Seashore Club South Property, LLC, PRH Seashore Club, LLC

TOPICS

- service of process
- civil procedure
- appellate procedure
- appellate jurisdiction

PRACTICE AREAS

- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether dismissal as to the individual appellees was proper when Gonzalez failed to file statutorily compliant service returns within the specified time or participate in an evidentiary hearing.
2. Whether the dismissal of the entity appellees could stand when they collectively responded to the third amended complaint and the prior order invoked as a jurisdictional bar was not final.
3. Whether dismissal as to the individual appellees should have been designated with prejudice.

HOLDINGS

1. The dismissal as to the individual appellees was properly affirmed because Gonzalez failed to file statutorily compliant service returns within the specified time and did not otherwise avail himself of the opportunity to participate in an evidentiary hearing.
2. The dismissal as to the individual appellees was affirmed, but the designation of that dismissal as being with prejudice was removed.
3. The dismissal of the entity appellees was reversed because the entities collectively responded to the third amended complaint and the prior order invoked as a jurisdictional bar contained no words of finality.

KEY QUOTATIONS

“A plaintiff bears the ultimate burden of proving valid service of process.” (2)

“Failure to include the statutorily required information invalidates a return of service.” (2)

“Statutes governing service of process are strictly construed, and the burden is on a plaintiff to establish that a defendant has been validly served and provided notice of the proceedings.” (2)

“In effect, rule 1.070(j) provides the trial court with three options: ‘(1) direct that service be effected within a specified time; (2) dismiss the action without prejudice; or (3) drop [the unserved] defendant as a party.’” (2)

FACTUAL BACKGROUND

Gonzalez sued individual and entity defendants. The individual defendants challenged service because Gonzalez did not file statutorily compliant returns of service within the specified time and did not otherwise participate in an available evidentiary hearing. The entity defendants collectively responded to the third amended complaint, and the prior order asserted as a jurisdictional bar contained no words of finality.

PROCEDURAL HISTORY

The circuit court for Miami-Dade County dismissed the civil lawsuit. Gonzalez appealed. The Third District summarily affirmed the dismissal as to the individual appellees, except for the designation that dismissal was with prejudice, and reversed the dismissal as to the entity appellees before remanding.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded after affirmance in part and reversal in part. The opinion specifically requires removal of the 'with prejudice' designation as to the individual appellees; it does not state additional detailed instructions concerning the entity appellees.

CASES CITED

- Robles-Martinez v. Diaz, Reus & Targ, LLP, 88 So. 3d 177, 179 (Fla. 3d DCA 2011)
- Carus v. Cove at Isles at Bayshore Homeowners Ass'n, Inc., 354 So. 3d 1111, 1114 (Fla. 3d DCA 2022)
- Avel v. Sechrist, 305 So. 3d 593, 596-97 (Fla. 3d DCA 2020)
- Premier Cap., LLC v. Davalle, 994 So. 2d 360, 362 (Fla. 3d DCA 2008)

OPINION

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed October 1, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D24-1554 Lower Tribunal No. 18-36849-CA-01 _____ Daniel Gonzalez, Appellant, vs. Jorge Amor, et al., Appellees. An Appeal from the Circuit Court for Miami-Dade County, Migna Sanchez-Llorens, Judge.

Robert Flavell, P.A. and Robert Flavell (Celebration), for appellant. Coffey Burlington, P. L., and Susan E. Raffanello; DLA Piper LLP (US) Virginia R. Callahan (Tampa); Forteza Law, PLLC, and William R. Bolinger and Gaspar Forteza, for appellees.

Before SCALES, C.J., and MILLER, and LOBREE, JJ. PER CURIAM. Appellant, Daniel Gonzalez, appeals from an order dismissing his civil lawsuit against appellees, Jorge Amor, Daniela Peters, Carlos Peters, Gonzalo Peters, First American Title Insurance Co., Seashore Club South Property, LLC, and PRH Seashore Club, LLC. We summarily affirm the dismissal as to the individual appellees, save the “with prejudice” designation because appellant failed to file statutorily compliant service returns within the specified time frame or otherwise avail himself of the opportunity to participate in an evidentiary hearing.

See Robles-Martinez v. Diaz, Reus & Targ, LLP, 88 So. 3d 177, 179 (Fla. 3d DCA 2011) (“[A] plaintiff bears the ultimate burden of proving valid service of process[.]”); Carus v. Cove at Isles at Bayshore Homeowners Ass’n, Inc., 354 So. 3d 1111, 1114 (Fla. 3d DCA 2022) (“Failure to include the statutorily required information invalidates a return of service.”); Avel v. Sechrist, 305 So.

3d 593, 596–97 (Fla. 3d DCA 2020) (“Statutes governing service of process are strictly construed, and the burden is on a plaintiff to establish that a defendant has been validly served and provided notice of the proceedings.”); see also Premier Cap., LLC v. Davalle, 994 So. 2d 360, 362 (Fla. 3d DCA 2008) (“In effect, rule 1.070(j) provides the trial court with three options: ‘(1) direct that

service be effected within a specified time; (2) dismiss the action without prejudice; or (3) drop [the unserved] defendant as a party.’”) (emphasis added).

But we are 2 constrained to reverse that part of the order dismissing the entities, as all collectively responded to the third amended complaint and the prior order they invoke as a jurisdictional bar contained no words of finality. Affirmed in part; reversed in part; remanded. 3