

FLORIDA THIRD DISTRICT COURT OF APPEAL

Vivian Dalencour v. BTI 1179, LLC

No. 3D25-1555 · No. No. 3D25-1555; Lower Tribunal No. 24-220940-CC-24 · Decided January 28, 2026

SUMMARY

The Third District Court of Appeal of Florida considered an appeal from a default final judgment of eviction and writ of possession. The court held that the judgment and writ were entered in violation of the automatic stay triggered by the appellant’s prior bankruptcy filing, vacated them, and remanded for further proceedings.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Chief Judge SCALES; Judge EMAS; Judge FERNANDEZ
JURISDICTION	Florida Third District Court of Appeal
DECIDED	January 28, 2026
DOCKET	No. 3D25-1555; Lower Tribunal No. 24-220940-CC-24
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Pro se appeal from a default final judgment of eviction and writ of possession entered by the Miami-Dade County Court.
STANDARD OF REVIEW	Review of the legal effect of the bankruptcy automatic stay and the validity of the judgment and writ entered after the bankruptcy filing.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Vivian Dalencour v. BTI 1179, LLC

TOPICS

- automatic stay
- eviction
- landlord tenant
- appellate procedure
- civil procedure

PRACTICE AREAS

- bankruptcy
- landlord tenant
- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether a default final judgment of eviction and writ of possession entered after the appellant filed a bankruptcy petition were void because they violated the automatic stay.
2. Whether the default final judgment and writ of possession should be vacated and the cause remanded for further proceedings.

HOLDINGS

1. A default final judgment of eviction and writ of possession entered after the filing of a bankruptcy petition were entered in error because the filing triggered the automatic stay; actions taken in violation of the stay are void and without effect.

KEY QUOTATIONS

“Nonetheless—and as counsel for appellee has properly and commendably conceded—the default final judgment and writ of possession were entered in error, in light of the automatic stay triggered by appellant’s filing of the bankruptcy petition.” (at 2)

“We therefore vacate the default final judgment and writ of possession, and reverse and remand this cause to the trial court for further proceedings.” (at 2)

FACTUAL BACKGROUND

Vivian Dalencour filed a petition for federal bankruptcy protection before the county court entered a default final judgment of eviction and writ of possession in favor of BTI 1179, LLC. The trial court was unaware of the bankruptcy filing when it entered those orders. The appellate court determined that the bankruptcy filing triggered the automatic stay and that the judgment and writ were entered in violation of it.

PROCEDURAL HISTORY

The county court entered a default final judgment of eviction on July 16, 2025, and issued a writ of possession. The appellant had filed a petition for federal bankruptcy protection before entry of the judgment and writ, although the trial court did not know of the filing when it acted. On appeal, appellee conceded error, and the Third District Court of Appeal vacated the judgment and writ and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The default final judgment and writ of possession are vacated, and the cause is remanded to the trial court for further proceedings.

CASES CITED

- In re Dorsey, 373 B.R. 528, 530 (Bankr. N.D. Ohio 2007)
- In re Striblin, 349 B.R. 301, 303 (Bankr. M.D. Fla. 2006)

- *Chistopher v. Bank of America, N.A.*, 323 So. 3d 838, 842 (Fla. 2d DCA 2021)
- *Borg-Warner Acceptance Corp. v. Hall*, 685 F.2d 1306, 1308 (11th Cir. 1982)
- *McMahon v. Ryan*, 964 So. 2d 198, 200 (Fla. 5th DCA 2007)
- *Personalized Air Conditioning, Inc. v. C.M. Sys., Inc.*, 522 So. 2d 465, 466 (Fla. 4th DCA 1988)

OPINION

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed January 28, 2026. Not final until disposition of timely filed motion for rehearing. _____ No. 3D25-1555 Lower Tribunal No. 24-220940-CC-24 _____ Vivian Dalencour, Appellant, vs. BTI 1179, LLC, Appellee. An Appeal from the County Court for Miami-Dade County, Stephanie Silver, Judge.

Vivian Dalencour, in proper person. Lipmann Law Offices, P.A., and Mark R. Lippman (Orlando), for appellee. Before SCALES, C.J., and EMAS and FERNANDEZ, JJ. PER CURIAM. ON CONFESSION OF ERROR Pro se appellant, Vivian Dalencour, appeals a default final judgment of eviction entered on July 16, 2025. A review of the docket reveals appellant filed a petition for federal bankruptcy protection prior to entry of the default final judgment and writ of possession.¹ The court notes, however, that the trial court did not have the benefit of this information at the time it entered the judgment on appeal.

Nonetheless—and as counsel for appellee has properly and commendably conceded—the default final judgment and writ of possession were entered in error, in light of the automatic stay triggered by appellant’s filing of the bankruptcy petition. See *In re Dorsey*, 373 B.R. 528, 530 (Bankr. N.D. Ohio 2007) (“Upon the commencement of a bankruptcy case, an automatic stay arises as a matter of law.”) (citing 11 U.S.C. § 362(a)); *In re Striblin*, 349 B.R.

301, 303 (Bankr. M.D. Fla. 2006) (“The automatic stay operates to enjoin a creditor from attempting to possess or to exercise control over property of a bankruptcy estate once a petition has been filed.”); *Chistopher v. Bank of America, N.A.*, 323 So. 3d 838, 842 (Fla. 2d DCA 2021) (“An action taken in violation of the automatic stay has been 1 This court granted appellant’s emergency motion for stay of the writ of possession during the pendency of this appeal.

2 determined to be ‘void and without effect.’”) (quoting *Striblin*, 349 B.R. at 303) and *Borg-Warner Acceptance Corp. v. Hall*, 685 F.2d 1306, 1308 (11th Cir.1982)); *McMahon v. Ryan*, 964 So. 2d 198, 200 (Fla. 5th DCA 2007) (“Actions taken in violation of the automatic stay are void and without effect. This is true even if there is no actual notice of the stay.”) (internal citations omitted); *Personalized Air Conditioning, Inc. v. C.M.*

Inc., 522 So. 2d 465, 466 (Fla. 4th DCA 1988) (“Filing of a petition in bankruptcy effectuates an automatic stay of all proceedings against a debtor effective the date the petition is filed and actions taken in violation of the stay are void even if there is no actual notice of the stay.”).

We therefore vacate the default final judgment and writ of possession, and reverse and remand this cause to the trial court for further proceedings. **Reversed and remanded.** 3