

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

WILTON DEDGE, WALTER  
GARY DEDGE, SR., AND MARY  
DEDEGE,

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

Appellants,

CASE NO. 1D05-4288

v.

JAMES V. CROSBY, JR.,  
SECRETARY OF FLORIDA  
D E P A R T M E N T O F  
CORRECTIONS, AND THE  
STATE OF FLORIDA,

Appellees.

\_\_\_\_\_ /

Opinion filed November 29, 2005.

An appeal from the Circuit Court for Leon County.  
William L. Gary, Judge.

Talbot D'Alemberte, and Gustavo Membiela of Hunton & Williams, LLP,  
Tallahassee, for Appellants.

Charlie Crist, Attorney General, and Louis Vargas, General Counsel, Tallahassee;  
Ronald L. Harrop and Warren B. Kwavnick of Cooney, Mattson, Lance,  
Blackburn, Richards & O'Connor, P.A., Orlando, for Appellees.

PER CURIAM.

The appellants have sought review of an "Order Granting Amended Motion to  
Dismiss," entered on August 29, 2005, and an "Amended Order Granting Amended

Motion to Dismiss,” entered on September 7, 2005. The Court has determined that neither order constitutes a final appealable order.

The August 29, 2005, order grants the defendants’ motion to dismiss but fails to actually dismiss the action. Such an order is not final. See Benton v. Moore, 655 So. 2d 1272, 1273 (Fla. 1st DCA 1995). In an apparent attempt to render a final order, the lower tribunal entered its amended order on September 7, 2005, indicating its intent that the defendants’ Amended Motion to Dismiss complaint be granted with prejudice. However, despite the lower tribunal’s apparent intent, an order granting a motion to dismiss with prejudice is no more final than an order granting a motion to dismiss without prejudice. See Johnson v. First City Bank of Gainesville, 491 So. 2d 1217, 1218 (Fla. 1st DCA 1986). Accordingly, the appeal is hereby dismissed for lack of jurisdiction.

In light of the dismissal, all pending motions are denied as moot.

ALLEN, WEBSTER and THOMAS, JJ., CONCUR.