

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

DOMINGO P. FIGUEROA,
Petitioner,

v.

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

CASE NO. 1D06-2732

JAMES R. McDONOUGH, Secretary,
Florida Department of Corrections,

Respondent.

/

Opinion filed August 22, 2006.

Petition for Writ of Mandamus -- Original Jurisdiction.

Domingo P. Figueroa, pro se, Petitioner.

No appearance for Respondent.

PER CURIAM.

Petitioner seeks a writ of mandamus to compel the Circuit Court for Leon County to issue a ruling on his motion to dismiss court imposed lien. For the reasons set forth below, we deny relief.

The case originated in the circuit court when petitioner filed a petition for writ of mandamus to challenge a disciplinary sanction imposed by the Florida Department

of Corrections. The court found petitioner to be indigent but imposed a lien against his trust account to recover the filing fees and costs associated with the circuit court proceeding. Petitioner filed the motion to dismiss the lien which is the subject of the instant petition. The circuit court has denied the mandamus petition on the merits but, according to petitioner, no written order has issued on the motion to dismiss the lien.

Petitioner fails to recognize that when a final order has issued and relief sought by motion has not been affirmatively granted, the motion has been denied. Griffin v. Workman, 73 So. 2d 844 (Fla. 1954); Kaplan v. Morse, 870 So. 2d 934 (Fla. 5th DCA 2004); Quinn v. Millard, 358 So. 2d 1378 (Fla. 3d DCA 1978). In the instant case, review of the order imposing lien can be obtained by raising it as an issue in a challenge to denial of the underlying mandamus petition by the circuit court in accordance with Sheley v. Florida Parole Comm'n, 720 So. 2d 216 (Fla. 1998). See Banks v. State, 916 So. 2d 35 (Fla. 1st DCA 2005).

Petitioner has failed to identify any ministerial duty which the circuit court has failed to perform and, accordingly, the petition for writ of mandamus is denied.

PETITION DENIED.

BENTON, PADOVANO, and LEWIS, JJ., CONCUR.