

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

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

CECIL MATHEWS,

Appellant,

v.

CASE NO. 1D08-5448

RISK MANAGEMENT, et al.,

Appellee.

Opinion filed August 14, 2009.

An appeal from the Circuit Court for Clay County.
Frederic A. Buttner, Judge.

Cecil Mathews, pro se, Appellant.

Bill McCollum, Attorney General, Tallahassee, for Appellee.

PER CURIAM.

The appellant has sought review of the Order Denying Plaintiff's Motion for Final Judgment on Reimbursement of Funds, wherein the lower tribunal concluded that it had previously addressed the appellant's arguments and denied the appellant's motion. The appellant characterizes this order as a final order denying

his request for reimbursement of funds withdrawn pursuant to a lien erroneously imposed on his inmate trust account. The proper avenue to seek relief from an improperly placed lien that is entered in the course of a collateral criminal proceeding is to preserve the issue and raise it in the appeal of the final judgment entered in the proceeding. See Lopez v. McDonough, 935 So. 2d 47 (Fla. 1st DCA 2006). Here, no final order disposing of the underlying action has yet been rendered. For this reason, the appeal is premature and must be dismissed. See Banks v. State, 916 So. 2d 35 (Fla. 1st DCA 2005). This dismissal is without prejudice to the appellant's right to seek review upon entry of a final order disposing of the underlying action. In light of this opinion dismissing the appeal, all pending motions are denied as moot.

HAWKES, C.J., LEWIS and THOMAS, JJ., CONCUR.