

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2007

AFFIRMATIVE INSURANCE COMPANY,
Petitioner,

v.

JOSIANNY MEZA-GOMEZ,
Respondent.

No. 4D07-2946

[January 2, 2008]

PER CURIAM.

This issue comes before the Court for second tier review on a petition for writ of certiorari. Petitioner, Affirmative Insurance, Co. seeks that this Court quash the circuit court order “Reaffirming Dismissal of Appeal and Granting Appellee/Plaintiff/Josianny Meza-Gomez’s Motion to Deem All Papers After Order of Dismissal Dated May 21, 2007, a Nullity, to Deem this Appeal Dismissed, and for Additional Attorney’s Fees.”

Review of a circuit court’s decision when acting in its appellate capacity is narrowly limited to a determination of whether the circuit court afforded procedural due process and applied the correct law. *Ivey v. Allstate Ins. Co.*, 774 So.2d 679, 681 (Fla. 2000). The circuit court erred in granting the “Motion to Deem All Papers...” on grounds that it did not have jurisdiction to reinstate the petitioner’s appeal. The court did have jurisdiction and accordingly the dismissal failed to provide procedural due process.

Therefore, certiorari is granted, the order dismissing the appeal in the circuit court is quashed, and the case remanded for further proceedings.

STONE, KLEIN and STEVENSON, JJ., concur.

* * *

Petition for writ of certiorari to the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Charles M. Greene, Judge; L.T. Case No. 06-10319 CACE.

Thomas A. Paigo of Rubinton & Laufer, LLC, Davie, for petitioner.

David B. Pakula, Pembroke Pines, and Adolfo A. Podrecca, Fort Lauderdale, for respondent.

Not final until disposition of timely filed motion for rehearing