

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

LINDA MICHAEL,

Appellant,

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

v.

CASE NO. 1D06-2968

FLORIDA CORRECTIONS
COMMISSION; FLORIDA PAROLE
COMMISSION, ET AL,

Appellee.

Opinion filed September 14, 2007.

An appeal from the Circuit Court of Leon County.
Terry P. Lewis, Judge.

Linda Michael, pro se, Appellant.

Kim M. Fluharty, General Counsel, and Connie Lynn Beach, Assistant General
Counsel of the Florida Parole Commission, Tallahassee, for Appellee.

PER CURIAM.

The appellant challenges both an order by which her request for affirmative relief was denied and an order by which a lien was imposed upon her inmate account for costs associated with this appeal. She argued below and maintains now that she

is eligible for parole consideration because her prison sentence was an upward departure from the recommended guidelines sentencing range. Because her argument on this point is without merit, see Czarnecki v. State, 468 So. 2d 303 (Fla. 5th DCA 1985), we affirm the circuit court's denial of relief on this claim. But we agree with the appellant that the underlying action is in the nature of a request for mandamus relief, and that, had the appellant succeeded on the merits, the length of her time in prison might have been affected. Thus, because the appellant's action constituted a collateral criminal proceeding under section 57.085(10), Florida Statutes, the circuit court erred by imposing a lien on her inmate account to cover the costs of this appeal. See Miller v. Florida Parole Commission, 951 So. 2d 22 (Fla. 1st DCA 2007); Schmidt v. Crusoe, 878 So. 2d 361 (Fla. 2003).

The order by which the lien for appellate costs was imposed is accordingly reversed and this case is remanded for the trial court to direct the reimbursement of any funds that have been withdrawn from the appellant's account pursuant to the lien. We note that another lien was placed on the appellant's trust account, one relating to the costs and fees associated with the circuit court's consideration of the underlying action. The propriety of that lien, however, was the subject of an appeal in a separate case in this court, case number 1D06-4111, which the appellant has since voluntarily dismissed. Consequently, the relief provided here relates only to the lien imposed to

cover the costs of the appeal in the present case.

BARFIELD, ALLEN and HAWKES, JJ., CONCUR.