

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

ROBERT E. BANKS,

Petitioner,

v.

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

Respondent.

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

CASE NO. 1D06-3342

Opinion filed January 31, 2007.

Petition for Writ of Certiorari -- Original Jurisdiction.

Robert E. Banks, pro se, Petitioner.

Bill McCollum, Attorney General, and Linda Horton Dodson, Assistant Attorney
General, Tallahassee, for Respondent.

PER CURIAM.

We reject petitioner's contention that the circuit court departed from the
essential requirements of law when it denied his petition for writ of mandamus.

However, as respondent correctly concedes, petitioner's claim constituted a collateral criminal proceeding, and the imposition of a lien on his inmate trust account to recoup filing fees and costs was therefore unauthorized. See Wagner v. McDonough, 927 So. 2d 216 (Fla. 1st DCA 2006). Accordingly, while we deny the petition for writ of certiorari as it pertains to the final order denying mandamus relief, we vacate the order imposing a lien on petitioner's inmate trust account and direct the circuit court to reimburse any funds withdrawn pursuant to that order.

WOLF, VAN NORTWICK, and LEWIS, JJ., CONCUR.