

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

RUDOLFO G. ORTIZ,

Appellant,

v.

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

CASE NO. 1D06-4268

JAMES R. McDONOUGH,
SECRETARY, FLORIDA
DEPARTMENT OF
CORRECTIONS,

Appellee.

_____ /

Opinion filed May 4, 2007.

An appeal from the Circuit Court for Leon County.
Thomas H. Bateman, III, Judge.

Rudolfo G. Ortiz, pro se, Appellant.

Bill McCollum, Attorney General, and Joy A. Stubbs, Assistant Attorney General,
Tallahassee, for Appellee.

WOLF, J.

Ortiz challenges an order dismissing his petition for mandamus and an order finding him to be a vexatious litigant and assessing attorney's fees. We affirm as to the dismissal of the mandamus petition without further comment.

We reverse that portion of the order finding Ortiz's petition to be frivolous pursuant to section 57.085(9), Florida Statutes (2005), and assessing attorney's fees pursuant to section 57.105, Florida Statutes (2005), as these sections do not apply to collateral criminal proceedings.

We affirm the order in all other respects as appellant has failed to properly raise a challenge as to the rest of the order regarding the finding of being a vexatious litigant.

ALLEN and POLSTON, JJ., CONCUR.