

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

W.T. PARKER,  
  
Petitioner,

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

v.

CASE NO. 1D06-4858

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

Respondent.

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Opinion filed June 21, 2007.

Petition for Writ of Certiorari -- Original Jurisdiction.

W.T. Parker, pro se, Petitioner.

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

PER CURIAM.

The petition for writ of certiorari is denied on the merits. We also deny  
petitioner's request to quash the circuit court's order on indigency for filing the

petition for writ of mandamus below. There is nothing in the record to show that petitioner requested relief from that order by filing a proper motion in the circuit court, therefore, petitioner waived the issue. Norman v. Fla. Parole Comm'n, 32 Fla. L. Weekly D1316 (Fla. 1st DCA May 21, 2007); Kemp v. McDonough, 32 Fla. L. Weekly D1126 (Fla. 1st DCA Apr. 30, 2007).

However, pursuant to Florida Rule of Appellate Procedure 9.430, we quash the circuit court's order imposing a lien for costs and fees incurred in this appellate proceeding and direct the circuit court to order reimbursement of any funds that have been withdrawn from petitioner's inmate trust account to satisfy the improper appellate fee lien order. Wheeler v. McDonough, 32 Fla. L. Weekly D1262 (Fla. 1st DCA May 14, 2007); Reddick v. McDonough, 938 So. 2d 595 (Fla. 1st DCA 2006). Because petitioner challenged the loss of gain time, the proceeding below qualified as a "collateral criminal proceeding" under Schmidt v. Crusoe, 878 So. 2d 361 (Fla. 2003), and there is no authority for imposing a lien under section 57.081, Florida Statutes (2006), the general indigency statute. Cason v. Crosby, 892 So. 2d 536 (Fla. 1st DCA 2005).

KAHN, LEWIS, and HAWKES, JJ., CONCUR.