FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D20-1236

CATHERINE CRAIG-MYERS, individually and as personal representative of the Estate of Robert Myers,

Petitioner,

v.

OTIS ELEVATOR COMPANY, a Connecticut for profit corporation, LOUIS CARL DEVINCENTIS, individually and as an employee of OTIS Elevator Company, JAMES DUDA, individually and as an employee of OTIS Elevator Company,

Respondents.

Petition for Writ of Certiorari—Original Jurisdiction.

December 14, 2020

PER CURIAM.

Petitioner seeks the disclosure of materials as a "public hazard" as defined in section 69.081, Florida Statutes (2020). Petitioner asks this Court to issue a writ of certiorari quashing multiple trial court orders, claiming the trial court refused to conduct an in-camera review of documents that contain the information in question. The trial court instructed Petitioner to provide a detailed description of the materials to be reviewed in-camera. Rather than provide that description, Petitioner sought a writ from this Court.

Confidential materials can be made public if they concern "a public hazard or information which may be useful to members of the public in protecting themselves from injury which may result from a public hazard." § 69.081(7), Fla. Stat. (2020). To obtain relief by certiorari, "[t]he petitioning party must demonstrate that the contested order constitutes '(1) a departure from the essential requirements of the law, (2) resulting in material injury for the remainder of the case (3) that cannot be corrected on postjudgment appeal.'" *Bd. of Trs. of Internal Improvement Tr. Fund v. Am. Educ. Enters., LLC*, 99 So. 3d 450, 454 (Fla. 2012) (quoting *Reeves v. Fleetwood Homes of Florida, Inc.*, 889 So. 2d 812, 822 (Fla. 2004)). "These last two elements are sometimes referred to as irreparable harm." *Damsky v. Univ. of Miami*, 152 So. 3d 789, 792 (Fla. 3d DCA 2014). "The 'irreparable harm' prong of the certiorari standard—i.e., material injury that cannot be remedied on appeal—is jurisdictional and must be considered first." *CVS Caremark Corp. v. Latour*, 109 So. 3d 1232, 1234 (Fla. 1st DCA 2013).

Here, the issue can be remedied on direct appeal. *See Jones v. Goodyear Tire & Rubber Co.*, 871 So. 2d 899, 906 (Fla. 3d DCA 2003) (ordering the trial court to vacate a confidentiality order on postjudgment appeal after deeming a product a public hazard). Petitioner offers only unsupported speculation of future harm, which is not sufficient to establish material injury. *Wal-Mart Stores E., L.P. v. Endicott*, 81 So. 3d 486, 490 (Fla. 1st DCA 2011) ("Generally speaking, irreparable harm cannot be speculative, but must be real and ascertainable."); *Bd. of Trs. of Internal Improvement Tr.*, 99 So. 3d at 455 ("If the party seeking review

does not demonstrate that it will suffer material injury of an irreparable nature, then an appellate court may not grant certiorari relief from a non-appealable non-final order.").

We therefore have no jurisdiction to hear the petition.

DISMISSED.

LEWIS, NORDBY, and LONG, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Sidney L. Matthew of Sidney L. Matthew, P.A., Tallahassee, for Petitioner.

Robert E. Sacks of Shapiro, Blasi, Wasserman and Hermann, P.A., Boca Raton, and Kenneth B. Bell of Gunster, Yoakley & Stewart, P.A., Tallahassee, for Respondents.