

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2011*

**ANTHONY J. STOKES,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D10-93

[January 12, 2011]

PER CURIAM.

In the circuit court, the state's response to a pro se emergency petition for writ of habeas corpus included a request for the issuance of an order prohibiting appellant from filing any further pro se pleadings in the case, pursuant to *State v. Spencer*, 751 So. 2d 47 (Fla. 1999). Ultimately, the circuit court granted the state's motion for a *Spencer* order. Appellant failed to respond to an order to show cause on the *Spencer* issue because he did not receive it; he established this fact through a prison log of mail received at the relevant time. As the state concedes, *Spencer* requires notice and a reasonable opportunity to respond before a *Spencer* order issues. We reverse the *Spencer* order and remand to the circuit court where appellant shall be given an opportunity to be heard on the *Spencer* issue.

GROSS, C.J., MAY and DAMOORGIAN, JJ., concur.

\* \* \*

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Martin Bidwill, Judge; L.T. Case No. 99-2141CF10A.

Anthony Stokes, Florida City, pro se.

Pamela Jo Bondi, Attorney General, Tallahassee, and Melanie Dale Surber, Assistant Attorney General, West Palm Beach, for appellee.

***Not final until disposition of timely filed motion for rehearing.***