

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

STATE OF FLORIDA,)	
)	
Appellant,)	
)	
v.)	Case Nos. 2D18-135
)	2D18-136
BRYAN KENDRICK,)	2D18-574
)	
Appellee.)	<u>CONSOLIDATED</u>
_____)	

Opinion filed May 20, 2020.

Appeal from the Circuit Court for
Hillsborough County; Laura E. Ward,
Judge.

Ashley Moody, Attorney General,
Tallahassee, and Katie Salemi-Ashby,
Assistant Attorney General, Tampa, for
Appellant.

Dirk R. Weed of Weed and Associates,
P.A., Tampa, for Appellee.

ORDER ON SHOW-CAUSE PROCEEDING

PER CURIAM.

Attorney Dirk R. Weed, Florida Bar Number 157538, appeared before this
court on Wednesday, March 4, 2020, to show cause why sanctions should not be
imposed for his failure to comply with this court's orders in the consolidated cases.

The State filed notices of appeal in the three cases on January 4, 2018. The notices that initiated appeal numbers 2D18-135 and 2D18-136 were transmitted to this court on January 8, 2018; the notice that initiated appeal number 2D18-574 was transmitted to this court on February 15, 2018. The notices were served on the Appellee's trial counsel, Dirk R. Weed. After several extensions of time, the State filed its initial briefs on January 22, 2019.

On April 11, 2019, this court issued orders in 2D18-135 and 2D18-574 directing counsel for the Appellee to file an answer brief within thirty days. The same order issued in 2D18-136 on May 24, 2019. The orders advised that if Attorney Weed had not been retained to represent the Appellee, he could file a motion to withdraw that complied with Florida Rule of Appellate Procedure 9.440(b) and State v. White, 742 So. 2d 374 (Fla. 2d DCA 1999). Attorney Weed did not respond.

On May 24, 2019, this court followed up with orders repeating the April 11 orders. Attorney Weed did not respond.

On July 10, 2019, this court ordered Attorney Weed to respond to the May 24 orders within ten days or sanctions would be imposed. On July 23, 2019, Attorney Weed filed responses. On August 14, 2019, this court treated Attorney Weed's responses as motions to withdraw as counsel and denied them without prejudice to file amended motions that complied with Florida Rules of Appellate Procedures 9.140(d) and 9.440(b). The orders provided in the alternative that Attorney Weed serve the answer briefs within thirty days. Attorney Weed did not respond.

On October 17, 2019, this court issued orders referring to Attorney Weed's July 23 responses and this court's August 14 orders and stating that compliance was

overdue. The orders noted that although Attorney Weed's responses stated that the Appellee's whereabouts were unknown, the Department of Corrections' website indicated that the Appellee was under community supervision. The orders suggested that Attorney Weed consult the Department of Corrections in his efforts to locate the Appellee. The orders again directed Attorney Weed to file either a motion to withdraw that satisfies rules 9.140(d) and 9.440(b) or an answer brief within thirty days. The orders stated that if Attorney Weed was unable to locate the Appellee, he could file a status report describing his efforts to do so. Attorney Weed did not respond.

On December 18, 2019, this court followed up with orders directing Attorney Weed to respond to the October 17 orders within twenty days. The orders warned that failure to comply could result in the imposition of sanctions. Attorney Weed did not respond.

On January 13, 2020, this court directed Attorney Weed to respond to the October 17 order within ten days. The orders warned that failure to comply could result in the imposition of sanctions. Still, Attorney Weed did not respond.

On February 13, 2020, this court issued orders requiring Attorney Weed to appear at the court's March 4 oral argument session to show cause why he should not be sanctioned for his failure to respond to this court's October 17, 2019, December 18, 2019, and January 13, 2020, orders.¹ The orders advised that if Attorney Weed complied with the three orders by 1 p.m. on Thursday, February 27, 2020, he could seek to discharge the orders to show cause. Attorney Weed did not seek discharge of the orders to show cause.

¹The orders to show cause mistakenly referred to the January order as having issued in 2019.

On March 4, 2020, Attorney Weed appeared as ordered. He did not adequately explain why he failed to respond to six orders from this court.² He stated that he filed a motion to withdraw in the circuit court, and he provided a copy to this court. This court noted that the motion still failed to comply with the appellate rules and that this court's orders directed him to file a motion to withdraw in this court. Attorney Weed advised the court that he would try that day to contact the Department of Corrections in his effort to locate the Appellee as this court had suggested in the October 17, 2019, order. Attorney Weed still has not responded or provided this court with a status report on his efforts to contact the Appellee.

By separate order, on our own motion we have discharged Attorney Weed from further representation of the Appellee in these consolidated appeals. Due to Attorney Weed's failure to comply with this court's directives and the attendant delays, we hereby refer this matter to The Florida Bar for investigation and initiation of such proceedings as may be appropriate.

NORTHCUTT, LaROSE, and BLACK, JJ., Concur.

²The process involved in arranging a show-cause appearance for a recalcitrant attorney, informally dubbed a "visit" in this court, is labor- and time-intensive. Of course, so are many processes undertaken by the court's legal and clerical staff, but visits are particularly unproductive in the sense that much time and labor are spent on a matter collateral to the substance of the appeal and even to the preliminary procedural matters involved in an appeal. In addition, visits delay finality for the parties and any victims.