

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

CHRISTINA PAYLAN, M.D.,)

Appellant,)

v.)

OFFICE OF THE STATE ATTORNEY)
FOR THE THIRTEENTH CIRCUIT,)

Appellee.)
_____)

Case No. 2D19-783

Opinion filed May 29, 2020.

Appeal from the Circuit Court for
Hillsborough County; Daryl M. Manning,
Acting Circuit Judge.

Christine Paylan, M.D., pro se.

Arthur I. Jacobs, Richard J. Scholz, and
Douglas A. Wyler of Jacobs, Scholz &
Wyler, LLC, Fernandina Beach, for
Appellee.

PER CURIAM.

Christina Paylan appeals from a final order denying her petition for a writ of mandamus seeking to compel the Office of the State Attorney for the Thirteenth Circuit to produce public records. The final order was rendered after an evidentiary hearing of which Dr. Paylan is said to have been notified by an order of the trial court

scheduling a case management conference under Florida Rule of Civil Procedure 1.200(a). The text of the order setting a case management conference at most gave Dr. Paylan notice that the trial court would consider scheduling and logistics for an evidentiary hearing—among other case management matters listed in the order—not that it would actually conduct a final evidentiary hearing and decide her petition on its merits.¹ Accordingly, on the facts of this case, Dr. Paylan was denied the notice of the hearing that due process requires, and we are required to reverse and remand for further proceedings. See Messing v. Nieradka, 230 So. 3d 962, 965 (Fla. 2d DCA 2017) (explaining that a party's due process right to notice is violated when a trial court takes evidence at a hearing not noticed as an evidentiary hearing); Shah v. Shah, 178 So. 3d 70, 71 (Fla. 3d DCA 2015) (holding that a trial court violated a party's due process right to notice when it conducted a final hearing at what was noticed as a status conference); Rodriguez v. Santana, 76 So. 3d 1035, 1037 (Fla. 4th DCA 2011) (holding that a trial court violated a party's due process right to notice when it "conducted a final evidentiary hearing when only a case management conference had been scheduled").

Reversed and remanded.

KELLY, SALARIO, and ATKINSON, JJ., Concur.

¹The order stated that the case "will be called up for a Case Management Conference" because "there are compelling reasons for case management for the purpose of judicial review." It further stated that "[m]atters to be considered at the Case Management Conference include matters that may aid in disposition of the action, including, but not limited to: 1. Case Management 2. Pending Status of Case 3. Evidentiary Hearing."