

Third District Court of Appeal

State of Florida

Opinion filed November 09, 2016.
Not final until disposition of timely filed motion for rehearing.

No. 3D16-257
Lower Tribunal No. 11-29025

James S. Harris,
Appellant,

vs.

Anne Bates Leach Eye Institute, et al.,
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Eric William Hendon, Judge.

James S. Harris, in proper person.

Fowler White Burnett P.A., and Marc J. Schleier and Christopher E. Knight, for appellees.

Before WELLS, ROTHENBERG, and FERNANDEZ, JJ.

ROTHENBERG, J.

James S. Harris (“Harris”) appeals the trial court’s order denying his rule 1.540(b) motion to vacate the trial court’s earlier order rendered on August 29, 2012, dismissing his medical malpractice complaint with prejudice. Because it is clear that Harris’s motion was untimely filed, we affirm.

Harris contends that he did not initially receive the order of dismissal when it was rendered in August 2012. However, by his own admission, he was aware of the order and had a copy of the order in his possession as of February 23, 2014. Thus, because his rule 1.540(b) motion to vacate was filed more than one year after receiving a copy of the trial court’s order of dismissal, the motion was untimely filed. See Owen v. State, 483 So. 2d 453, 454-55 (Fla. 1st DCA 1986). Accordingly, we affirm the trial court’s denial of Harris’s motion to vacate.

Affirmed.