

# Third District Court of Appeal

## State of Florida

Opinion filed January 3, 2018.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D17-1109  
Lower Tribunal Nos. 16-17377 & 17-24

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**Judy Percival,**  
Petitioner,

vs.

**Karen Capps, et al.,**  
Respondents.

On Petition for Writ of Certiorari from the Circuit Court for Miami-Dade County, Appellate Division, Bertila Soto, John Schlesinger and Lisa Walsh, Judges.

Judy Percival, in proper person.

Goodkind & Florio, P.A., Brian K. Goodkind and Kenneth R. Florio, for respondent ANF Miami Gardens, LLC.

Before SUAREZ, LUCK and LINDSEY, JJ.

LINDSEY, J.

Judy Percival (“Appellant”) appeals an order of the appellate division of the circuit court dismissing her appeal from a final judgment of tenant eviction in the County Court in and for Miami-Dade, County. We treat the notice of appeal as a petition for writ of certiorari. See Fla. R. App. P. 9.040(c) (“If a party seeks an improper remedy, the cause shall be treated as if the proper remedy had been sought; provided that it shall not be the responsibility of the court to seek the proper remedy.”). We have certiorari jurisdiction to review the final order of the circuit court acting in its review capacity. See Fla. R. App. P. 9.030(b)(2)(B).

A final judgment for tenant eviction was entered by the county court on December 20, 2016 and docketed on the clerk’s docket on December 21, 2016. On January 31, 2016, Appellant filed a notice of appeal of the final judgment to the appellate division of the circuit court. On April 18, 2017, ANF Miami Gardens, LLC (“Appellee”) filed a motion to dismiss the appeal on the grounds that it was filed beyond the thirty days prescribed by Florida Rule of Appellate Procedure 9.110(b) and was, therefore, untimely. On May 3, 2017, the appellate division of the circuit court entered an order granting the motion to dismiss. On May 15, 2017, Appellant filed a notice of appeal of that order.

Having reviewed the record, we find no departure from the essential requirements of law. See Boffelli v. Kent Sec. Servs., 175 So. 3d 310 (Fla. 3d DCA 2015); Soro Co. Int’l v. Jones, 89 So. 3d 258, 258 (Fla. 3d DCA 2012)

(denying petition for certiorari review of an order of the appellate division of the circuit court affirming a final judgment for removal of a tenant).

Petition denied.