

Third District Court of Appeal

State of Florida

Opinion filed August 7, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D18-1335
Lower Tribunal No. 02-21208

Anthony George,
Appellant,

vs.

State of Florida, Department of Corrections,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Victoria Del Pino,
Judge.

Charles G. White, for appellant.

Daniels Rodriguez Berkeley Daniels & Cruz, P.A., and Neil P. Robertson, for
appellee.

Before **SALTER, LOGUE, and SCALES, JJ.**

LOGUE, J.

Former inmate, Anthony George, seeks review of the criminal court's
judgment of restitution for \$273,750 in favor of the Department of Corrections. The

restitution lien, entered pursuant to section 960.292(2), Florida Statutes, is intended to reimburse the Department for the cost of incarcerating him while in custody. Mr. George does not contend that the lien was entered in violation of the requirements of the controlling statute or that the criminal court judge otherwise committed a legal error. Instead, he asserts the Department obtained this restitution lien to use it as a set off against any recovery he might be awarded in the future in the event he prevails in a separate civil lawsuit he filed against the Department for a personal injury he suffered during his incarceration. He contends the Department's action in this regard was retaliatory and violates his right of access to courts.

We uphold the criminal court's order under review. In doing so, we note that similar challenges have been rejected in the past. See Goad v. Fla. Dep't of Corrections, 845 So. 2d 880, 885-86 (Fla. 2003) (upholding a restitution lien as counterclaim to a prisoner's civil action claim for damages); Ilkanic v. City of Fort Lauderdale, 705 So. 2d 1371, 1372-73 (Fla. 1998) (rejecting the arguments that a restitution lien violates equal protection and due process). Nevertheless, we decline to reach the issue of whether this lien can be legally used as a set off against any future recovery because that issue is not ripe for determination. Unless and until Mr. George obtains a recovery and the Department's attempt to use the lien as a set off is either actually occurring or imminent, his request for a ruling on this point is little

more than “an unauthorized request for an advisory opinion.” McMullen v. Bennis,
20 So. 3d 890, 892 (Fla. 3d DCA 2009).

Affirmed.