

Third District Court of Appeal

State of Florida

Opinion filed July 31, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-672
Lower Tribunal No. 98-12208C

Shamond Byrd,
Petitioner,

vs.

The State of Florida,
Respondent.

A Case of Original Jurisdiction— Mandamus.

Shamond Byrd, in proper person.

Ashley Moody, Attorney General, and Michael W. Mervine, Assistant Attorney General, for respondent.

Before EMAS, C.J., and SCALES and LINDSEY, JJ.

PER CURIAM.

On May 15, 2019, this Court issued an opinion denying a petition for a writ of mandamus filed by Shamond Byrd. Our opinion contained an order to show cause why Byrd should not be prohibited from filing with this Court any further pro se appeals, petitions, motions or other proceedings related to his criminal convictions in Circuit Court case number F98-12208C.

Byrd responded to the order to show cause on March 24, 2019. His response presents no new legal argument for the benefit of this Court, and it does not surmount the established legal principle that a petition for writ of mandamus may not be employed in an appellate court to override a lower court's sanction order. See Huffman v. State, 813 So. 2d 10, 11 (Fla. 2000).

The access to courts provision of the Florida Constitution – Article I, section 21 – provides an avenue for an incarcerated person in Florida to challenge the legal basis of his or her incarceration; however, the right to proceed pro se is not unfettered and may be forfeited if that person abuses the judicial process. Jimenez v. State, 196 So. 3d 499, 501 (Fla. 3d DCA 2016). We are obligated to balance Byrd's pro se right of access to courts with this Court's need to devote its finite resources to legitimate petitions and appeals. We recognize the seriousness of a sanction when the petitioner, as here, has been sentenced to a significant prison term. State v. Spencer, 751 So. 2d 47, 48 (Fla. 1999). Nonetheless, "[t]his Court has the inherent authority and duty to strike a balance between a pro se litigant's right to participate in the

judicial process and a pro se litigant's abuse of the judicial process." Jimenez, 196 So. 3d at 501.

Because we conclude that Byrd has not demonstrated good cause to justify further pro se filings of appeals, petitions, motions, or other proceedings with this Court, we direct the Clerk of the Third District Court of Appeal to refuse to accept from Byrd further pro se filings related to Circuit Court case number F98-12208C; provided, however, that the Clerk may accept filings related to case number F98-12208C if such filings have been reviewed and signed by an attorney who is a licensed member of the Florida Bar in good standing.

Any such further and unauthorized pro se filings by Byrd will subject him to sanctions, including the issuance of written findings forwarded to the Florida Department of Corrections for consideration by it for disciplinary action, pursuant to section 944.279(1) of the Florida Statutes.

Order issued.