

Third District Court of Appeal

State of Florida

Opinion filed July 22, 2020.
Not final until disposition of timely filed motion for rehearing.

No. 3D20-737
Lower Tribunal Nos. 18-228 AP; 11-1980

United Automobile Insurance Company,
Petitioner,

vs.

Doctor Rehab Center, Inc.,
a/a/o Juliet Fernandez,
Respondent.

On Petition for Writ of Certiorari from the Circuit Court for Miami-Dade County, Appellate Division, Daryl E. Trawick, Lisa S. Walsh and Thomas J. Rebull, Judges.

Michael J. Neimand, for petitioner.

Majid Vossoughi, P.A., and Majid Vossoughi, Brad R. Blackwelder and David J. Mannering, for respondent.

Before EMAS, C.J., and GORDO and LOBREE, JJ.

PER CURIAM.

Petitioner, United Automobile Insurance Company, seeks second-tier certiorari review of an order of the appellate division of the circuit court affirming the entry of final judgment in favor of Doctor Rehab Center.

“[W]hen a district court considers a petition for second-tier certiorari review, the ‘inquiry is limited to whether the circuit court afforded procedural due process and whether the circuit court applied the correct law,’ or, as otherwise stated, departed from the essential requirements of law.” Custer Med. Ctr. v. United Auto. Ins. Co., 62 So. 3d 1086, 1092 (Fla. 2010) (quoting Haines City Cmty. Dev. v. Heggs, 658 So. 2d 523, 530 (Fla. 1995)). “The departure from the essential requirements of the law necessary for granting a writ of certiorari is something more than a simple legal error.” Id.; see Allstate Ins. Co. v. Kaklamanos, 843 So. 2d 885, 889 (Fla. 2003). “Rather, a district court should exercise its discretion to grant review only when the lower tribunal has violated a clearly established principle of law resulting in a miscarriage of justice.” Id.; see Kaklamanos, 843 So. 2d at 889.

Upon review of the record, we conclude Petitioner is not entitled to the writ because the circuit court afforded procedural due process and applied the correct law. See Pearce v. Sandler, 219 So. 3d 961, 965 (Fla. 3d DCA 2017) (“[C]ollateral estoppel may be applied to bar subsequent causes of action even where the second claim requires proof of different essential facts than those required to be proved in the initial suit.” (quoting Larimore v. State, 76 So. 3d 1121, 1123 (Fla. 1st DCA

2012)); see also R.D.J. Enters., Inc. v. Mega Bank, 600 So. 2d 1229, 1232 (Fla. 3d DCA 1992) (“Any right, fact or matter in issue and directly adjudicated, where necessarily involved in the determination of an action before a competent court in which a judgment or decree has been rendered upon the merits is conclusively settled by the judgment therein and cannot again be litigated by the same parties and their privies, whether the claim, demand, purpose or subject matter of the two suits is the same or not.” (quoting In re Constructors of Fla., Inc., 349 F.2d 595, 599 (5th Cir. 1965))).

Petition denied.