Third District Court of Appeal

State of Florida

Opinion filed June 24, 2020.
Not final until disposition of timely filed motion for rehearing.

No. 3D20-0745
Lower Tribunal No. 19-11662

Florida Department of Children and Families,
Petitioner,

vs.

The State of Florida and A.L.,
Respondents.

A Writ of Certiorari to the Circuit Court for Miami-Dade County, Mark Blumstein, Judge.

Javier A. Enriquez, General Counsel, and Andrew J. McGinley, Assistant General Counsel (Tallahassee), for petitioner.

Ashley Moody, Attorney General, and Jeffrey R. Geldens, Assistant Attorney General, for respondent State of Florida, and Carlos J. Martinez, Public Defender, and John Eddy Morrison, Assistant Public Defender, for respondent A.L.

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

PER CURIAM.

The Department of Children and Families (the "Department"), a non-party to the proceedings below, petitions for a writ of certiorari quashing the trial court's order compelling it to arrange for the provision of mental health treatment in jail to an inmate adjudicated incompetent to proceed. We find the trial court was not authorized to issue this order without adequate notice and therefore grant the petition and quash the trial court's order.

The Department contends that certiorari relief is warranted as the trial court's order is a departure from the essential requirements of the law that causes it irreparable harm, for which it has no adequate remedy on appeal. See Dep't of Children & Families v. Morrison, 727 So. 2d 404, 405 (Fla. 3d DCA 1999) (granting writ of certiorari where Department, non-party to underlying criminal case, would suffer irreparable harm and had no other adequate remedy). The trial court's order granted relief that was not requested or noticed for hearing by either party.[1] See Fed. Nat'l Mortg. Ass'n v. Blocker, 728 So. 2d 306, 307 (Fla. 1st DCA 1999); Kerrigan, Estess, Rankin & McLeod v. State, 711 So. 2d 1246, 1248-49 (Fla. 4th DCA 1998), and the cases cited therein. "We have previously held that 'the granting

[1] Neither of the parties has taken a position on the merits of the Department's petition. Subsequent to the entry of the order on review, Emergency Orders DCF-20-096-EO and DCF-20-097-EO have suspended the Department's obligations pursuant to section 916.107(1)(a), Florida Statutes, regarding the transfer of forensic clients to a civil or forensic facility and the provision of treatment for forensic clients not yet in a civil or forensic facility through June 30, 2020.

of relief, which is not sought by the notice of hearing or which expands the scope of a hearing and decides matters not noticed for hearing, violates due process.'" Afanasiev v. Alvarez, 45 Fla. L. Weekly D442, D442 (Fla. 3d DCA Feb. 26, 2020) (quoting Lapciuc v. Lapciuc, 275 So. 3d 242, 245 (Fla. 3d DCA 2019)); see also Mizrahi v. Mizrahi, 867 So. 2d 1211, 1213 (Fla. 3d DCA 2004) ("Due process protections prevent a trial court from deciding matters not noticed for hearing and not the subject of appropriate pleadings."). This denial of due process constitutes a departure from the essential requirements of law, for which the Department has no adequate remedy on appeal. The order is therefore quashed, and the case is remanded to the trial court for further proceedings.