

Third District Court of Appeal

State of Florida

Opinion filed September 6, 2017.
Not final until disposition of timely filed motion for rehearing.

No. 3D16-1007
Lower Tribunal No. 85-25037

Samuel Rivera,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Victoria R. Brennan, Judge.

Samuel Rivera, in proper person.

Pamela Jo Bondi, Attorney General, and Sandra Lipman, Assistant Attorney General, for appellee.

Before ROTHENBERG, C.J., and SCALES and LUCK, JJ.

PER CURIAM.

On July 5, 2017, this Court issued an order granting the State of Florida's motion to dismiss Appellant Samuel Rivera's "Notice for Belated Appeal Nunc Pro Tunc Motion," which had sought to advance Rivera's continuing and repetitive efforts to overturn his 1987 convictions for first degree murder and armed robbery. Contained within the Court's order was an order to show cause why Rivera should not be prohibited from filing with this Court any pro se appeals, petitions, motions, or other proceedings related to his criminal sentencing in circuit court case number 85-25037.

Rivera's August 4, 2017 response to our show cause order introduces no new argument or information for our consideration. We conclude that Rivera has not demonstrated good cause to justify further pleadings with this Court, absent the participation of an attorney to represent him.

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, this constitutional right may be forfeited if that person abuses the judicial process. Jimenez v. State, 196 So. 3d 499, 501 (Fla. 3d DCA 2016). Our responsibility is to balance the incarcerated person's right to access to courts with the need of this Court to devote its finite resources to legitimate appeals and petitions. State v. Spencer, 751 So. 2d 47, 48 (Fla. 1999). Accordingly, after notice in the form of an order to show cause and an opportunity

for the incarcerated person to respond, a court may prevent further filings. Id.; see also Whipple v. State, 112 So. 3d 540 (Fla. 3d DCA 2013).

Because we conclude that Rivera 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 Rivera further pro se filings related to circuit court case number 85-25037; provided, however, that the Clerk may accept filings related to case number 85-25037 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 Rivera 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.