

Third District Court of Appeal

State of Florida

Opinion filed August 22, 2018.
Not final until disposition of timely filed motion for rehearing.

No. 3D18-1598
Lower Tribunal No. 12-21583

Anthony Patrick Baratta,
Appellant,

vs.

Tatiana Costa-Martinez,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Rosa C. Figarola, Judge.

Anthony Patrick Baratta, in proper person.

Tatiana Costa-Martinez, in proper person.

Mandel Law Group, P.A., and Roberta G. Mandel, former counsel for appellee.

Before SUAREZ, SALTER, and LINDSEY, JJ.

PER CURIAM.

Respondent/Father Anthony Patrick Baratta appeals the Pick-Up Order and Break Order entered on August 3, 2018. The pick-up order was entered upon the Motion for Order of Commitment to Take Respondent/Father into Custody and for Writ of Bodily Attachment filed by the Mandel Law Group on July 31, 2018. This motion was accompanied by an affidavit from attorney, Roberta G. Mandel, Esq., attesting that Baratta had failed to comply with the trial court's July 25, 2016 order to pay approximately \$21,000 in attorney's fees to the Mandel Law Group, P.A. The Mandel Law Group formerly represented the Petitioner/Mother Tatiana Costa-Martinez.

We reverse the pick-up order because, upon the filing of the motion for order of commitment and accompanying affidavit, no show cause order was issued and because there was no compliance with Florida Rule of Criminal Procedure 3.840, applicable to indirect criminal contempt proceedings. See Maier v. Junior, 198 So. 3d 949 (Fla. 3d DCA 2016); Anton v. Anton, 106 So. 3d 34 (Fla. 3d DCA 2013); De Castro v. De Castro, 957 So. 2d 1258 (Fla. 3d DCA 2007); Decoro v. State, 771 So. 2d 627 (Fla. 3d DCA 2000); Baker v. Green, 732 So. 2d 6 (Fla. 4th DCA 1999).

We therefore reverse the trial court's finding of indirect criminal contempt without prejudice.

Reversed.

