

Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed November 19, 2008.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-822
Lower Tribunal No. 92-3518; 9142776

Lorenzo Tatum,
Petitioner,

vs.

The State of Florida,
Respondent.

A Case of Original Jurisdiction - Mandamus.

Lorenzo Tatum, in proper person.

Bill McCollum, Attorney General, and Richard Polin, Assistant Attorney General, for respondent.

Before GERSTEN, C.J., and SHEPHERD and SALTER, JJ.

PER CURIAM.

We treat Defendant's appeal from an order denying his "Motion for Specific Performance" as a motion to enforce our mandate in Tatum v. State, 957 So. 2d 1214 (Fla. 3d DCA 2007). In Tatum, we reversed an order denying Defendant's Florida Rule of Criminal Procedure 3.800 motion and remanded for further proceedings. Id. These proceedings have not yet occurred.

Based on the decision and accompanying mandate in Tatum, the trial court had the option of denying Defendant's motion and attaching portions of the record conclusively showing that Defendant is not entitled to relief, or granting the motion. McIntosh v. State, 914 So. 2d 511 (Fla. 5th DCA 2005). Because the trial court has not yet taken either course, we grant the motion and direct the trial court to promptly comply with our previously-issued mandate.

Motion granted.