

Third District Court of Appeal

State of Florida, July Term, A.D. 2009

Opinion filed September 23, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-2012
Lower Tribunal No. 87-32288

Jeffrey Alan Weekley,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Peter Adrien,
Judge.

Jeffrey Alan Weekley, in proper person.

Bill McCollum, Attorney General, and Ansley B. Peacock, Assistant
Attorney General, for appellee.

Before WELLS and SHEPHERD, JJ., and SCHWARTZ, Senior Judge.

PER CURIAM.

Affirmed.

WELLS, J., and SCHWARTZ, Senior Judge, concur.

SHEPHERD, J., dissenting.

On this appeal, Defendant, Jeffrey Alan Weekley, contends the trial court erred by prematurely entering an order prohibiting Defendant from filing future pro se motions without considering his response to a show cause order.

The record reflects, and the State concedes, the trial court did not have a copy of Defendant's response to its order to show cause when it issued an order prohibiting Defendant from filing future pro se motions. The trial court issued the show cause order May 21, 2008. The clerk of the trial court did not mail a copy of the order to Defendant until June 17. On July 1, Defendant mailed a motion for rehearing **and** response to the show cause order to the trial court. A review of the docket reflects the clerk docketed Defendant's motion for rehearing July 10, but did not docket the response. One day prior, on July 9, the trial court entered an order prohibiting Defendant from filing any further pro se motions.

I would vacate the July 9 order so the trial court can consider Defendant's Response to Order to Show Cause.

I express no opinion on the merits of the matter.