

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

KEVIN D. D'HAITI,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

CASE NO. 1D05-4992

JAMES R. MCDONOUGH,  
Secretary, FLORIDA  
DEPARTMENT OF  
CORRECTIONS,

Appellee.

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Opinion filed April 23, 2007.

An appeal from the Circuit Court for Leon County.  
Terry P. Lewis, Judge.

Kevin D. D'Haiti, pro se, Appellant.

Bill McCollum, Attorney General, Kathleen Von Hoene, General Counsel, and Daniel R. Burke, Assistant General Counsel, Tallahassee, for Appellee.

PER CURIAM.

Kevin D. D'Haiti seeks review of the circuit court's order dismissing his petition for a writ of mandamus on the basis that Mr. D'Haiti failed to prepay a

portion of the circuit court's filing fee as previously ordered in the circuit court's "Clerk's Certificate of Indigence." That order determined Mr. D'Haiti to be indigent but able to prepay \$11.00 of the \$280.00 total filing fee imposed, and required that the Florida Department of Corrections place a lien on his inmate account for the remainder.

As the Department concedes, the action filed in the circuit court was a collateral criminal action as defined in Schmidt v. Crusoe, 878 So. 2d 361, 367 (Fla. 2003). Accordingly, we reverse the order dismissing Mr. D'Haiti's mandamus petition; vacate the indigency order insofar as it requires partial prepayment and placement of a lien on his inmate trust account for the remainder, see Cason v. Crosby, 892 So. 2d 536, 537 (Fla. 1st DCA 2005); remand for further proceedings on his mandamus petition; and direct that the circuit court enter an order on remand requiring reimbursement to Mr. D'Haiti of those funds withdrawn from his account pursuant to the lien. See, e.g., Marquez v. McDonough, 945 So. 2d 652, 653 (Fla. 1st DCA 2007).

Reversed and remanded.

BROWNING, C.J., BENTON, and LEWIS, JJ., CONCUR.