

Supreme Court of Florida

MONDAY, JUNE 22, 2020

CASE NO.: SC19-1814

Lower Tribunal No(s).:

3D19-1562;

132013AP000394000001

FRANK A. MCCLUNG, JR., ET AL. vs. ELIA E. ESTEVEZ

Petitioner(s)

Respondent(s)

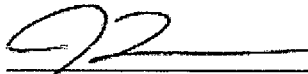
This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Article V, Section 3(b), Florida Constitution, and the Court having determined that it should decline to accept jurisdiction, it is ordered that the petition for review is denied.

No motion for rehearing will be entertained by the Court. *See* Fla. R. App. P. 9.330(d)(2).

CANADY, C.J., and POLSTON, LABARGA, LAWSON, and MUÑIZ, JJ., concur.

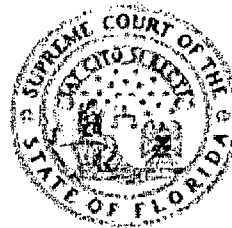
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John A. Tomasino

Clerk, Supreme Court



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Served:

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA

THIRD DISTRICT

AUGUST 28, 2019

FRANK A. MCCLUNG, JR., et al.,
Appellant(s)/Petitioner(s),
vs.
ELIA E. ESTEVEZ,
Appellee(s)/Respondent(s),

CASE NO.: 3D19-1562

L.T. NO.: 13-394

In the order under review, the circuit court appellate division affirmed, per curiam without opinion, the final order of the county court. After careful review of the petition and appendix, we deny this petition for second tier certiorari. See Nader v. Fla. Dep't of Highway Safety & Motor Vehicles, 87 So. 3d 712, 722 (Fla. 2012) ("Because the assumption is that the litigant has already received full appellate review by the circuit court (either sitting in three-judge panels or by one judge alone), the district court's discretion to grant certiorari review is restricted to those errors that 'depart from the essential requirements of law.'").

Upon consideration of respondent's motion for prevailing party attorney's fees, it is ordered that said motion is hereby denied. See Sanchez v. State Farm Fla. Ins. Co., 997 So. 2d 1209, 1209 (Fla. 3d DCA 2008) (denying motion for appellate attorney fees when appellate record reflected "de minimis" activity).

SALTER, LOGUE and SCALES, JJ., concur.

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ATTEST

Mercedes M. Prieto

CLERK

DISTRICT COURT OF APPEAL
THIRD DISTRICT

cc: Andrew Paul Kawel
Hon. George A. Sarduy

Frank A. McClung, Jr.
Hon. Jacqueline Hogan Scola

Marian E. Tellman-McClung
Hon. Lisa S. Walsh

ns

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

APPELLATE DIVISION

Not Final Until disposition of timely filed motion for rehearing, clarification, or certification

CASE NO.: 2013-000394-AP-01
LOWER COURT CASE NUMBER: 2011-026200-CC-23

Frank A. McClung, Jr. and Marian E. Tellman-McClung,
Appellant(s)

vs.

Elia E. Estevez
Appellee(s)

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CIVIL DIVISION

An Appeal from the County Court for Miami-Dade County, Florida, Judge Caryn C. Schwartz

Frank A. McClung, Jr. and Marian E. Tellman-McClung, for appellant(s).

Elia E. Estevez, Esq. for appellee(s).

Before JUDGE JACQUELINE HOGAN SCOLA, JUDGE GEORGE A. SARDUY, JUDGE LISA S.
WALSH, JJ. (panel)

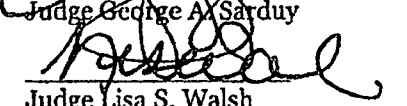
PER CURIAM.

☒ Affirmed.

This 1st day of May, 2019.


Judge Jacqueline Hogan Scola


Judge George A. Sarduy


Judge Lisa S. Walsh

Cc

Frank A. McClung, Jr.
Marian E. Tellman-McClung

Andrew P. Kawel, Esq.

IN THE CIRCUIT COURT OF THE ELEVENTH
JUDICIAL CIRCUIT, IN AND FOR MIAMI-DADE
COUNTY, FLORIDA.

APPELLATE DIVISION

CASE NUMBER: 2013-000394-AP-01

LOWER COURT CASE NUMBER:

2011-026200-CC-23

Frank A. McClung, Jr. and Marian Tellman-McClung,
Appellant(s)

vs.

Elia E. Estevez
Appellee(s)

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CIVIL DIVISION

Appellee's Motion for Attorney's Fees and Costs is hereby:

☒ **Granted.** The case is remanded to the lower court to determine the amount of a reasonable fee.

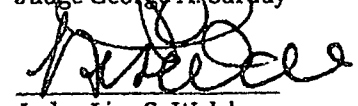
☐ **Denied.** *as to appellant*

JUDGE JACQUELINE HOGAN SCOLA, JUDGE GEORGE A. SARDUY, JUDGE LISA S. WALSH, JJ CONCUR.

It is so ordered this 15th day of May, 2019.


Judge Jacqueline Hogan Scola


Judge George A. Sarduy


Judge Lisa S. Walsh

Cc

Frank A. McClung, Jr.
Marian E. Tellman-McClung
PO Box 14-2063
Gainesville, FL 32614-2063

Andrew P. Kawel, Esq.
80 SW 8th St Ste 3330
Miami FL 33130-3004

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT, IN AND FOR MIAMI-DADE COUNTY, FLORIDA.

APPELLATE DIVISION

CASE NO.: 2013-000394-AP-01
LOWER COURT CASE NUMBER: 2011-026200-CC-23

Frank A. McClung, Jr., and
Marian E. Tellman-McClung,
Appellant(s),

vs.

Elia E Estevez,
Appellee(s).

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Upon consideration by the court, Appellants' Motion for Re-Hearing and Clarification of the May 1, 2019 Order
Awarding Attorney's Fees is hereby:


☐ Granted


☒ Denied

Jacqueline Hogan Scola, George A. Sarduy, and Lisa S. Walsh, JJ CONCUR

It is so ordered this 25th day of June, 2019.


Judge Jacqueline Hogan Scola


Judge George A. Sarduy


Judge Lisa S. Walsh

CC: FRANK A. McCLUNG, PRO SE
MARIAN E. TELLMAN-McCLUNG, PRO SE
ANDREW P. KAWEL, ESQ.

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT, IN AND FOR MIAMI-DADE COUNTY, FLORIDA.

APPELLATE DIVISION

CASE NO.: 2013-000394-AP-01
LOWER COURT CASE NUMBER: 2011-026200-CC-23

Frank A. McClung, Jr., and
Marian E. Tellman-McClung,
Appellant(s),

vs.

Elia E Estevez,
Appellee(s).

Upon consideration by the court, Appellants' Motion for Re-Hearing and Clarification of the May 1, 2019 Per
Curiam Affirmed Decision and for Written Decision is hereby:

☐ **Granted**

☒ **Denied**

Jacqueline Hogan Scola, George A. Sarduy, and Lisa S. Walsh, JJ CONCUR

It is so ordered this 2nd day of July, 20 19


Judge Jacqueline Hogan Scola


Judge George A. Sarduy


Judge Lisa S. Walsh

CC: FRANK A. McCLUNG, PRO SE
MARIAN E. TELLMAN-McCLUNG, PRO SE
ANDREW P. KAWEL, ESQ.

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