

IN THE CIRCUIT COURT FOURTH JUDICIAL CIRCUIT
IN AND FOR DUVAL COUNTY, FLORIDA

CASE NO.: 16-2021-AP-0005
DIVISION: AP-A

SANDRA BELL WASHINGTON
Appellant,

vs

CITY OF JACKSONVILLE, a
municipal corporation,
Appellee.

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On review from an order of the City of Jacksonville, Municipal Code Enforcement Board

December 16, 2021

ORDER DISMISSING APPEAL AND
DENYING PETITION FOR WRIT OF CERTIORARI

PER CURIAM.

This case is before the Court on the Notice of Appeal filed by Appellant, Sandra M. Washington Bell on March 4, 2021. Appellant seeks review by this Court of an order entered by the Special Magistrate on February 8, 2021, titled: "Final Order to Correct Violation" (hereinafter "Order"). The Order finds that Appellee, the City of Jacksonville, proved that Appellant had not corrected or repaired conditions to her real property located at 1170 West 10th Street, Jacksonville, Florida, after proper notice. The conditions were found to be in violation of the Jacksonville Ordinance Code. The Special Magistrate further found that the Appellee was provided notice to repair the conditions by January 22, 2020, and Appellant failed to comply.

By order entered May 10, 2021, the Court deemed the Notice of Appeal to be a Petition for Certiorari and ordered the City of Jacksonville to show cause why the Petition should not be granted.

While the Order is titled "Final Order to Correct Violation," the Order is not a final order. The Order states in Paragraph (2):

“If the Respondent does not comply with this Order, this case will be heard after March 4, 2021, by the Special Magistrate for Municipal Code Enforcement for further adjudication, which may include the imposition of an administrative fine in an amount determined by the Special Magistrate. Should the same violation(s) recur within the next five years, the Respondent may be considered as a repeat violator.”

Based on the clear language of the Order, final administrative action has not been rendered. Further opportunity to cure the violations was provided to Appellant, and a further hearing was required before penalty and or fines were to be assessed.

Appellant invokes this Court’s jurisdiction pursuant to Rule 9.030 (c) (1) (C), Florida Rules of Appellate Procedure, section 162.11, Florida Statutes, and section 91.108 of the City of Jacksonville Municipal Code; however, the listed provisions do not satisfy the required jurisdiction of this Court. This Court may review administrative actions when provided by general law; however, section 162.11, Florida Statutes, permits appeal of "...final administrative order[s]...to the circuit court" (emphasis added). Florida Rule of Appellate Procedure 9.130 (a)(1) allows certain non-final orders to be appealed, but non-final administrative orders are not included. See Ford v. Agency for Persons with Disabilities Dist. 15, St. Lucie, 932 So. 2d 294, 296 (Fla. 4th DCA 2005) (“Florida Rules of Appellate Procedure 9.130, which permits interlocutory review of non-final orders in civil cases, does not apply to administrative orders.”); See also Florida Agency for Health Care Administration v. McClain, 244 So. 3d 1147, 1149 (Fla. 1st DCA 2018). Accordingly, the Order is not final, and this Court does not have jurisdiction to review the Order as an appeal.

To the extent that the initial Notice of Appeal is deemed a Petition for Certiorari, this Court’s jurisdiction would be based on Florida Rule of Appellate Procedure 9.030 (c) (2). However, to obtain certiorari review of a nonfinal administrative order, Petitioner must demonstrate that the administrative body below failed to follow the essential requirements of law and that any harm to be sustained from the Order cannot be remedied upon appeal from a final order. A departure from the essential requirements of law is more than just a legal error, it is an act that results in a gross miscarriage of justice. Ivey v. Allstate Ins. Co., 774 So.2d 679 (Fla. 2000); Haines City Community Dev. v. Heggs, 658 So.2d 523 (Fla. 1995). The petition fails to show any error by the Special Magistrate, much less a gross miscarriage of justice. Furthermore, Petitioner

has not demonstrated how the order creates a material injury for which there is no adequate remedy on appeal following entry of a final order. This showing is required for certiorari relief from a nonfinal order. See Agency for Health Care Admin. v. South Broward Hospital District, 206 So.3d 826 (Fla. 1st DCA 2016). The Order fails to warrant certiorari review because the Special Magistrate simply ordered the petitioner take some action to avoid “further adjudication.” See Terra Title Corp., Inc. v. Belanger, 77 So.3d 725 (Florida 3d DCA 2011) (holding that “no irreparable injury has yet occurred, and none is certain to follow.”).

WHEREFORE, it is ORDERED:

1. The Notice of Appeal is DISMISSED.
2. To the extent that the Notice of Appeal is deemed to be a Petition for a Writ of Certiorari, the Petition is DENIED.

ENTERED, this 17th day of December, 2021.

HORKAN, WILENSKY, and WALLACE, JJ., concur.