

IN THE SUPREME COURT OF FLORIDA

GEORGE MAY,

Petitioner,

v.

PATRICK C. BARTHET, ET AL.,

Respondents.

CASE NUMBER: SC04-2270

LOWER TRIBUNAL

CASE NUMBER: 4D04-2800

**RESPONDENTS', INTERNATIONAL GAME TECHNOLOGY, INC.,
G. THOMAS BAKER, CHARLES N. MATHEWSON, PATRICK C.
BARTHET, ANDREW M. FELDMAN, and PAUL D. BREITNER,
JURISDICTIONAL ANSWER BRIEF**

On Review from the District Court of Appeal, Fourth District
State of Florida

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None.	

STATEMENT OF THE CASE AND FACTS¹

On November 10, 2004, the Fourth District Court of Appeal (hereinafter referred to as “the 4th DCA”) issued an opinion affirming the dismissal below and granted the Respondents’ Motion for a Rule to Show Cause Why Petitioner should not be prohibited from appearing *pro se* and/or prevented from filing *pro se* appeals (hereinafter referred to as “the 4th DCA Opinion”). Petitioner failed to show cause in accordance with the 4th DCA Opinion and on November 30, 2004, that court issued a Mandate in accordance with its Opinion, which effectively prohibited Petitioner from filing any further *pro se* appeals or original petitions in that court without the signature of a Florida attorney.

Petitioner appears to be seeking review by this Court of the 4th DCA Opinion, as well as several other orders of the Palm Beach Circuit Court.

SUMMARY OF THE ARGUMENT

There is nothing contained in Petitioner’s Amended Initial Brief on Jurisdiction which supports his position that this Court has jurisdiction.

JURISDICTIONAL STATEMENT

The Florida Supreme Court does not have jurisdiction to review this matter.

¹ Respondents are unable to accept the statement of facts set forth in Petitioner’s Amended Initial Brief on Jurisdiction because the brief is not only rambling and unintelligible, but it contains inaccurate statements and assertions.

ARGUMENT

PETITIONER HAS FAILED TO INVOKE THE JURISDICTION OF THIS COURT

Petitioner is a serial *pro se* vexatious litigant. In the present appeal, Petitioner continues his *pro se* misconduct. His Amended Initial Brief on Jurisdiction is an unintelligible labyrinth of mischaracterizations and inaccurate statements whirling into a vortex of unrelated statutes and case law. He seems to be seeking review by this Court of the 4th DCA Opinion, which is attached to his brief in an appendix, and, as well, refers to other orders issued by the Palm Beach Circuit Court. First he argues that this Court has jurisdiction under a subsection of Fla. R. App. P. 9.130, specifically the 1977 Revision. He cites to a Subsection (a)(5), and then proceeds to quote what appears to be that section, but, in fact, quotes from the 1977 Committee Notes. As well, he seems to be relying on Fla. R. App. P. 9.030(a)(1)(A)(ii) and 9.030(a)(2)(A)(vi) to invoke this Court's jurisdiction.² However, none of these rules are applicable to this appeal.

Fla. R. App. P. 9.130 does not apply to the issue of this Court's jurisdiction.

The applicability of this rule is set forth in subsection (a), which states that

[T]his rule applies to appeals to the district courts of appeal of the non-final orders authorized herein and to appeals to the circuit court of non-final orders when provided by general law. Review of other

²Petitioner cites to Fla. R. App. P. 9.030(2)(A)(vi); there is no such subsection. Presumably, Petitioner meant Fla. R. App. P. 9.030(a)(2)(A)(vi).

non-final orders in such courts and non-final administrative action shall be by the method prescribed by rule 9.100.

Thus, there is nothing contained in this rule that relates to the invocation of this Court's jurisdiction under the procedural circumstances of this case.

Fla. R. App. P. 9.030 (a)(1)(A)(ii) provides that this Court "shall review, by appeal . . . decisions of district courts of appeal declaring invalid a state statute or a provision of the state constitution." The 4th DCA Opinion under review prohibits Petitioner from filing any further *pro se* appeals or original petitions in the 4th DCA, without first obtaining the signature of an attorney of record who is a member in good standing with the Florida Bar. There is absolutely no mention of the invalidity of either a state statute or provision of the state constitution. Rather, it is Petitioner who *argues* that the 4th DCA Opinion, and the other opinions referred to in his brief, declare the invalidity of various statutes. This is just not true.

Fla. R. App. R. 9.030(a)(2)(A)(vi) enunciates the discretionary jurisdiction of this Court and provides, in relevant part, that this Court "may be sought to review . . . decisions of district courts of appeal that . . . are certified to be in direct conflict with decisions of other district courts of appeal." Clearly, this latter rule is not applicable here because there has been no such certification by the district court to this Court. The only "certification" of conflict is by the Petitioner himself! See page 5 of the Petitioner's Amended Initial Brief on Jurisdiction. This is

wholly inadequate. Furthermore, under Fla. R. App. P. 9.120(d), “[I]f jurisdiction is invoked under . . . (a)(2)(A)(vi) (certifications by the district courts to the supreme court), no briefs on jurisdiction shall be filed.”

CONCLUSION

Petitioner has failed to invoke this Court’s jurisdiction. Since this Court does not have jurisdiction to review the decision below, the instant appeal should be dismissed.

CERTIFICATE OF SERVICE

WE CERTIFY that a true and correct copy of the foregoing was served this ____ day of August, 2005, by U. S. First Class Mail, to: George May, Petitioner, P.O. Box 32247, Palm Beach Gardens, Florida 33420 and to John R. Hart, Esq. and Michael K. Winston, Esq., Carlton Fields, P.A., Attorneys for Respondents, Mandalay Resorts Group, Inc., John R. Hart and Michael K. Winston, 222 Lakeview Avenue, Suite 1400, P.O. Box 150, West Palm Beach, Florida 33402-0150.

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this Jurisdictional Answer Brief complies with the font requirements of Fla. R. App. P. 9.210(a)(2).

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