

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

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

LARRY MADISON,

Appellant,

v.

Case No. 5D14-245

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed June 6, 2014

Appeal from the Circuit Court
for Orange County,
Robert J. Egan, Judge.

Larry L. Madison, Sneads, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Allison Leigh Morris,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Larry Madison appeals the order of the circuit court denying his request for a belated appeal based on that court's determination that the petition for belated appeal was untimely. We treat the appeal as a petition for writ of certiorari and grant the petition.

An appeal timely commenced in an inappropriate court is deemed timely filed in the appropriate court. Pennywell v. Dep't of Revenue ex rel. Woodard, 62 So. 3d 19, 20 (Fla. 1st DCA 2011) (observing that "the filing of a notice of appeal in the wrong court is

not a jurisdictional defect” and that the notice “is considered to have been filed in the proper court as of the date that it was filed in the wrong court” (citations omitted)). As the State properly agrees, the petition for belated appeal was timely filed in this court per the mailbox rule. Because the circuit court’s assessment of timeliness was incorrect, the circuit court failed to afford Madison due process and departed from the essential requirements of the law. We, therefore, quash the order under review and remand to the circuit court.

PETITION GRANTED; ORDER QUASHED; REMANDED.

SAWAYA, ORFINGER and COHEN, JJ., concur.