

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

LENORRIS MINCEY,

Appellant,

v.

Case No. 5D14-1528

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed February 6, 2015

3.850 Appeal from the Circuit
Court for Orange County,
Julie H. O'Kane, Judge.

Lenorris Mincey, Malone, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Rebecca Rock Mc
Guigan, Assistant Attorney General,
Daytona Beach, for Appellee.

PER CURIAM.

Lenorris Mincey, defendant, appeals the trial court's order denying all claims raised in his original and amended motions for post-conviction relief, filed pursuant to rule 3.850 of the Florida Rules of Criminal Procedure. We dismiss this appeal as untimely.

Pursuant to rule 3.850(j), a trial court's order disposing of a motion for rehearing shall be filed no later than 40 days from the date of the order of which rehearing is sought. If no order is issued within 40 days, the motion is deemed denied.

In this case, the trial court's order denying the defendant's post-conviction motion was rendered on October 22, 2013, and his motion for a rehearing was filed timely on November 6, 2013. Thus, the trial court was required to issue an order on the motion for rehearing on or before December 2, 2013, or else the motion for rehearing would be deemed denied on that date. Here, the trial court failed to timely render an order addressing the motion for rehearing on or before December 2nd. Therefore, the defendant's appellate window began on that date. Thus, the defendant had 30 days from December 2nd to file a timely notice of appeal. His notice was not filed until April 24, 2014. Accordingly, we dismiss this untimely appeal for lack of jurisdiction.

DISMISSED.

SAWAYA, PALMER and LAWSON, JJ., concur.