

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

JULY TERM 2006

EDWARD L. STEWART,

Petitioner,

v.

Case No. 5D06-1929

STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed July 21, 2006.

Petition for Belated Appeal,
A Case of Original Jurisdiction.

Edward L. Stewart, Jasper, pro se.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Kellie A. Nielan,
Assistant Attorney General, Daytona
Beach, for Respondent.

PER CURIAM.

Petitioner seeks a belated appeal of the judgment and sentence rendered on 3 October 2005 in Brevard County Circuit Court case number 05-2003-CF-031367. In response to an order to show cause, the State reported that it contacted the assistant public defender assigned to represent petitioner. The attorney stated that petitioner had several cases pending against him; some of the cases were consolidated and others were tried separately. The attorney recalls that the petitioner did not want to appeal this case. Although petitioner initially did not want to appeal the disposition in this case, the attorney stated the petitioner may have changed his mind. This contention is buttressed

by the Brevard County register of actions which shows an order granting petitioner's motion for insolvency for appellate purposes issued 26 April 2006 in this case. Thus, the State concedes that petitioner is entitled to a belated appeal. Therefore, the petition for belated appeal is granted. Upon issuance of the opinion in this cause, a copy shall be provided to the clerk of the circuit court for treatment as a notice of appeal. Fla. R. App. P. 9.141(c)(5)(D). Upon receipt, the clerk of the lower court shall certify a copy to this court in compliance with Florida Rule of Appellate Procedure 9.040(g).

PETITION GRANTED.

PLEUS, C.J., THOMPSON and PALMER, JJ., concur.