

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

WALTER E. MAGINNIS,

Appellant,

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

v.

CASE NO. 1D04-4748

JAMES V. CROSBY, Secretary,
Florida Department of Corrections,

Appellee.

_____ /

Opinion filed May 31, 2005.

An appeal from the Circuit Court for Leon County.
Jonathan Sjostrom, Judge.

Appellant, pro se.

Charlie Crist, Attorney General, Tallahassee; Carrie R. McNair, Assistant Attorney General, Tallahassee; and Louis A. Vargas, General Counsel, Department of Corrections, Tallahassee, for Appellee.

PER CURIAM.

Upon consideration of the appellant's response to the Court's order of October 28, 2004, the Court has determined that the notice of appeal was not timely filed. Fla. R. App. P. 9.130(b). Accordingly, the appeal is hereby dismissed for lack of jurisdiction. See Snelson v. Snelson, 440 So. 2d 477 (Fla. 5th DCA 1983). In light of

the dismissal, the appellee's "Limited Appearance and Motion to Stay Briefing or in the Alternative, Motion for Enlargement of Time," filed on November 8, 2004, is denied as moot.

ERVIN, PADOVANO and THOMAS, JJ., CONCUR.