

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

SAMUEL C. GOLDEN,

Appellant,

v.

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

CASE NO. 1D10-2059

STATE OF FLORIDA,

Appellee.

Opinion filed February 7, 2011.

An appeal from the Circuit Court for Duval County.
David M. Gooding, Judge.

Samuel C. Golden, pro se, Appellant.

Pamela Jo Bondi, Attorney General, and Brooke Poland, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

The appellant appeals the trial court's order denying his motion for relief
from judgment filed pursuant to Florida Rule of Civil Procedure 1.540(b). In this

motion, the appellant claimed that he did not receive a copy of the trial court's order denying his motions for declaratory judgment until after the time for initiating an appeal had expired. The appellant requested that the trial court vacate and then reenter the prior order so as to preserve his right to appeal. Cases such as Griffin v. Florida Parole Commission, 727 So. 2d 1092 (Fla. 1st DCA 1999), and Gibson v. Buice, 381 So. 2d 349 (Fla. 5th DCA 1980), suggest that such relief should be afforded under rule 1.540(b) when a party does not receive a copy of the order as entered by the court. The appellant's motion is thus facially sufficient and may warrant relief if the allegations therein are established as accurate and true. The appealed order is therefore reversed and the case is remanded to the trial court. On remand, the trial court is directed to conduct an evidentiary hearing as to whether the appellant received the prior order before the time to initiate an appeal expired or, in the alternative, to reenter the prior order so that the appellant may appeal that order.

VAN NORTWICK, LEWIS, and ROBERTS, JJ., CONCUR.