

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

SHERMAN DWAIN MILTON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D10-5703

Opinion filed January 24, 2011.

An appeal from the Circuit Court for Union County.
Acting Circuit Judge David L. Reiman.

Jeffrey E. Lewis, Criminal Conflict & Civil Regional Counsel, and Salvatore D. Mollica, Assistant Regional Counsel, Starke, for Appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, for Appellee.

PER CURIAM.

Appellant's "Motion for Delayed Appeal" has been treated by the court as a response to our order to show cause questioning the timeliness of the notice of appeal. Inasmuch as the response fails to demonstrate that the notice of appeal was

timely filed, we dismiss the appeal for lack of jurisdiction. However, in light of the allegation that appellant timely made his desire for an appeal known to counsel and fault for the unexplained delay in filing of the notice of appeal cannot be attributed to appellant himself, this disposition is without prejudice to the filing of a properly sworn petition seeking belated appeal complying with the provisions of Florida Rule of Appellate Procedure 9.141(c).

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