

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

CARLISS M. JOHNSON,

Appellant,

v.

Case No. 5D16-315

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed June 24, 2016

Non-Final Appeal from the
Circuit Court for Volusia
County,
Sandra C. Upchurch, Judge.

James S. Purdy, Public Defender, and
Edward J. Weiss, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Douglas T. Squire,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Carliss M. Johnson appeals the trial court's Order Denying Motion for Reconsideration regarding his involuntary civil commitment pursuant to the Jimmy Ryce Act. "Generally, an appellate court is not authorized to grant a belated appeal in a civil proceeding as the filing of the notice of appeal is jurisdictional." In re Commitment of

May, 975 So. 2d 579, 580 (Fla. 2d DCA 2008). However, in a Jimmy Ryce case, an individual may seek belated appeal by filing a petition for writ of habeas corpus in the circuit court. Id. at 581-82. In the instant appeal, the trial court summarily denied Johnson's petition without addressing the merits of his claim. Accordingly, we remand this case for the trial court to determine on the merits whether Johnson is entitled to a belated appeal from his civil commitment.

REVERSED and REMANDED.

SAWAYA, BERGER and WALLIS, JJ., concur.