

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

ROBERT E. CLARIDY,

Petitioner,

v.

Case No. 5D21-1091

STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed September 17, 2021

Petition Alleging Ineffectiveness
of Appellate Counsel,
A Case of Original Jurisdiction.

Robert Claridy, Raiford, pro se.

No Appearance for Respondent.

PER CURIAM.

Robert E. Claridy has filed a successive petition under Florida Rule of Appellate Procedure 9.141(d) alleging that he received ineffective assistance from his appellate counsel on direct appeal. We dismiss the petition.

Claridy was convicted after trial in 2015 of one count of unlawful sexual activity with a minor. His conviction and sentence were affirmed on direct appeal without opinion. *Claridy v. State*, 199 So. 3d 281 (Fla. 5th DCA 2016). Mandate issued on September 16, 2016, resulting in Claridy's judgment and sentence becoming final that day.

Claridy's present petition was filed almost five years after his judgment and sentence became final. Florida Rule of Appellate Procedure 9.141(d), which governs petitions alleging ineffective assistance of appellate counsel, provides, in pertinent part, that "[i]n no case shall a petition alleging ineffective assistance of appellate counsel on direct review be filed more than 4 years after the judgment and sentence become final on direct review." See Fla. R. App. P. 9.141(d)(5). Accordingly, as Claridy's instant petition is clearly untimely under this rule, it is dismissed as procedurally barred. See *Mendoza v. State*, 224 So. 3d 836, 837 (Fla. 3d DCA 2017) ("Because Mendoza's petition was filed . . . more than four years after his judgment and sentence became final on direct review, we dismiss Mendoza's petition as procedurally barred under rule 9.141(d)(5).").

As this is now Claridy's fifth unsuccessful postconviction proceeding in this court regarding his judgment and sentence in Putnam County Circuit Court Case No. 2013-CF-739, we caution him that any further repetitive,

malicious, or frivolous filings directed to this judgment and sentence may result in the imposition of sanctions against him including, but not limited to, prohibiting him from any further pro se filings in this court regarding the judgment and sentence and a referral to prison officials for consideration of disciplinary proceedings, which may include the forfeiture of gain time. See § 944.279(1), Fla. Stat. (2021); *State v. Spencer*, 751 So. 2d 47 (Fla. 1999).

PETITION DISMISSED; WARNING ISSUED.

LAMBERT, C.J., HARRIS and TRAVER, JJ., concur.