

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2004

NED P. PAYNE,

Appellant,

v.

Case No. 5D03-2091

STATE OF FLORIDA,

Appellee.

Opinion filed September 17, 2004

Appeal from the Circuit Court
for Orange County,
James C. Dauksch, Senior Judge.

James B. Gibson, Public Defender, and
Rosemarie Farrell, Assistant Public Defender,
Daytona Beach, for Appellant.

Charles J. Crist, Jr., Attorney General, Tallahassee,
and, Timothy D. Wilson, Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

ON MOTION FOR REHEARING

Ned Payne appealed his sentence which was imposed by the trial court after a jury found him guilty of committing the crime of theft. Having found no merit in the issues raised in Payne's initial brief, we issued a per curiam affirmance. Payne filed a motion for rehearing requesting that this court recall its decision based upon the fact that defense counsel had not received a copy of the State's answer brief and therefore he had not had the opportunity to file a reply brief. We granted Payne leave to file a reply brief; however, upon review thereof, we conclude that no reversible error has been demonstrated. Accordingly, we deny Payne's motion for rehearing.

DENIED.

SAWAYA, C.J., PLEUS and PALMER, JJ., concur.