

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

JULY TERM 2003

ISHMAEL ROLLE,

Appellant,

v.

CASE NO. 5D03-2462

STATE OF FLORIDA,

Appellee.

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Opinion filed October 17, 2003

3.850 Appeal from the Circuit Court  
for Brevard County,  
John M. Griesbaum, Judge.

Ishmael Rolle, Panama City, pro se.

No Appearance for Appellee.

PER CURIUM.

ON ORDER TO SHOW CAUSE

Ishmael Rolle (defendant) appeals the summary denial of his rule 3.850 motion for postconviction relief. See Fla. R. Crim. P. 3.850.

The trial court's denial order was rendered on April 15, 2003, and it advised the defendant that he had thirty days within which to file an appeal. The defendant's notice of appeal was not filed until ninety-two days later. In response to this court's order to show cause why the appeal should not be dismissed for lack of jurisdiction, the defendant filed a statement wherein he explained that after he filed his rule 3.850 motion with the trial court he was transferred to a different correctional institution and did not receive the trial court's denial order until June 18, 2003. Defendant did not attach any documents to support his claim.

The instant notice of appeal was untimely filed and, accordingly, this appeal must be dismissed. However, the dismissal is without prejudice to the defendant to seek a belated appeal.<sup>1</sup>

DISMISSED.

THOMPSON, PALMER and MONACO, JJ., concur.

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<sup>1</sup>See Fla. R. App. P. 9.141(c).