

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

JULY TERM 2003

MICHAEL KAILING,

Petitioner,

v.

Case No. 5D03-2887

STATE OF FLORIDA,

Respondent.

Opinion filed October 24, 2003

Petition for Belated Appeal,
A Case of Original Jurisdiction.

Michael Kailing, Avon Park, pro se.

No Appearance for Respondent.

PALMER, J.

Michael Kailing (defendant) petitions this court to issue a writ of habeas corpus for the purpose of allowing him to pursue a belated appeal, claiming ineffective assistance of appellate counsel. Concluding that his petition was timely filed under the mailbox rule, we grant the petition and defendant's request for belated appeal.

Turning to the defendant's substantive claim that he was denied effective assistance of appellate counsel on direct appeal, we affirm on the merits concluding that the defendant's reliance upon Jozens v. State, 649 So.2d 322 (Fla. 1st DCA 1995) is misplaced.

Petition for belated appeal GRANTED, judgment and sentence AFFIRMED.

GRIFFIN and THOMPSON, JJ., concur.

