

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

JULY TERM 2004

RUBEN GONZALEZ,
Petitioner,

v.

CASE NO. 5D04-2144

STATE OF FLORIDA,
Respondent.

_____ /

Opinion filed July 30, 2004

Petition for Belated Appeal,
A Case of Original Jurisdiction.

Ruben Gonzalez, Bushnell, pro se.

No Appearance for Respondent.

PER CURIAM.

We deny Appellant's petition for belated appeal. The record reflects that Appellant received the challenged order, which denied his motion for relief pursuant to Florida Rule of Criminal Procedure 3.850, nineteen days before the Notice of Appeal was due to be filed. Instead of filing the Notice of Appeal, however, Appellant, acting *pro se*, filed an untimely Motion for Rehearing, which did not toll the time period for filing the Notice of Appeal. Appellant's Notice of Appeal, therefore, which was not filed until after the lower court denied Appellant's Motion for Rehearing, was untimely. Under these circumstances, Appellant has not demonstrated entitlement to relief under Florida Rule of Appellate Procedure 9.141(c).

PETITION DENIED.

SAWAYA, C.J., ORFINGER and TORPY, JJ., concur.