

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

JULY TERM 2005

CHARLES H. MCINTOSH,

Appellant,

v.

Case No. 5D05-1634

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed July 29, 2005

3.800 Appeal from the Circuit
Court for Lake County,
Mark J. Hill, Judge.

Charles McIntosh, Wewahitchka, pro se.

No Appearance for Appellee.

PER CURIAM.

Charles McIntosh (defendant) appeals the trial court's order denying his rule 3.800(a)¹ motion for jail time credit. We dismiss this appeal for lack of jurisdiction because the defendant's notice of appeal was not timely filed. See McAllister v. State, 418 So.2d 1203 (Fla. 3d DCA 1982), rev. denied, 429 So.2d 6 (Fla. 1983)(holding the district court lacks jurisdiction over an appeal filed more than 30 days after rendition of order being appealed).

Florida Rule of Appellate Procedure 9.140(b)(3) provides that a defendant shall file a notice of appeal at any time "between the rendition of a final judgment and 30 days

¹See Fla. R. Crim. P. 3.800(a).

following rendition of a written order imposing sentence.” The order on appeal reflects a rendition date of April 8, 2005. The defendant’s notice of appeal was untimely filed, pursuant to the mailbox rule,² on May 13, 2005, some 35 days after the rendition of the order.

In closing, we note that the issue raised by the defendant relating to the certificate of service attached to the order (which recited a service date of April 13, 2005) may affect the defendant’s entitlement to receive a belated appeal and could be raised in a petition seeking a belated appeal filed pursuant to Florida Rule of Appellate Procedure 9.141(c). Accordingly, this appeal is dismissed without prejudice to the defendant seeking a belated appeal.

AFFIRMED.

SHARP, W., THOMPSON and PALMER, JJ., concur.

²See Pagan v. State, 899 So.2d 1203 (Fla. 2d DCA 2005)(explaining that under the mailbox rule a pro se inmate’s document is deemed filed when the inmate entrusts the document to prison officials for delivery).