

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

JULY TERM 2006

KEVIN PHILLIPS,

Appellant,

v.

Case No. 5D06-2566

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed October 6, 2006

3.850 Appeal from the Circuit Court
for Citrus County,
Richard Howard, Judge.

Kevin D. Phillips, East Palatka, Pro Se.

No Appearance for Appellee.

PER CURIAM.

Kevin Phillips appeals the summary denial of his postconviction motion filed pursuant to Florida Rule of Criminal Procedure 3.850. This Court issued an order to show cause because Mr. Phillips's notice of appeal was untimely. Mr. Phillips responded that the delay was caused "due to [the] prison mail system," although he offers nothing to substantiate that claim. This appeal must be dismissed as untimely. However, this dismissal is without prejudice to file a petition for belated appeal in compliance with Florida Rule of Appellate Procedure 9.141(c).

DISMISSED WITHOUT PREJUDICE.

PALMER, ORFINGER and TORPY, JJ., concur.