

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

JULY TERM 2007

FREDDIE SIPLIN,

Petitioner,

v.

Case No. 5D07-2489

STATE OF FLORIDA,

Respondent.

Opinion filed August 17, 2007

Petition for Writ of Habeas Corpus, A Case
of Original Jurisdiction.

James S. Purdy, Public Defender, and
David S. Morgan, Assistant Public
Defender, Daytona Beach, for Petitioner.

No Appearance for Respondent.

PER CURIAM.

Freddie Siplen filed a petition for writ of habeas corpus on July 23, 2007, seeking review of an order entered on May 1, 2007, which modified his probation to include electronic monitoring as a condition of probation. Prior to the filing of the instant habeas petition, Siplen filed a notice of appeal on May 25, 2007, from the same order modifying probation entered on May 1, 2007. That appeal is pending in this court, and has not yet been perfected.

As an order modifying probation may be appealed,¹ the appeal initiated by Siplen is the proper appellate remedy. Therefore, the instant habeas petition is dismissed.

¹ See Fla. R. App. P. 9.140(b)(1)(D).

See generally Harris v. State, 949 So. 2d 241 (Fla. 5th DCA 2007) (habeas corpus may not be used as a substitute for an appeal).

PETITION DISMISSED.

PALMER, C.J., SAWAYA and MONACO, JJ., concur.