

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

JULY TERM 2010

DERRICK PLACIDE,

Petitioner,

v.

Case No. 5D10-1213

STATE OF FLORIDA,

Respondent.

Opinion filed August 6, 2010

Petition for Belated Appeal,
A Case of Original Jurisdiction.

Derrick Placide, Wewahitchka, pro se.

Bill McCollum, Attorney General, Tallahassee
and Wesley Heidt, Assistant Attorney
General, Daytona Beach, for Respondent.

PER CURIAM.

Derrick Placide petitions for a writ of habeas corpus, seeking a belated appeal of his plea to a violation of probation. This court appointed a Commissioner to decide the facts. The petitioner testified that his girlfriend contacted his defense attorney several times to ask him to appeal but her phone calls were not returned. His defense attorney testified that he saw nothing to appeal since the petitioner entered a plea to his probation violation and received a lawful sentence but that he always files an appeal when asked to do so. The Commissioner found that the petitioner's testimony did not refute his defense attorney's credible testimony that no one contacted his office to request a timely appeal. See Rivera v. State, 943 So. 2d 973 (Fla. 5th DCA 2006).

PETITION DENIED.

SAWAYA, TORPY and EVANDER, JJ., concur.