

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

MICHAEL A. SAIN,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION AND  
DISPOSITION THEREOF IF FILED.

CASE NO. 1D03-1853

Opinion filed October 13, 2003.

Petition for Belated Appeal -- Original Jurisdiction.

Michael A. Sain, pro se, petitioner.

Charlie Crist, Attorney General, and Elizabeth Fletcher Duffy, Assistant Attorney General, Tallahassee, for respondent.

PER CURIAM.

Michael Sain petitions this court for a belated appeal of the order rendered on February 14, 2003, which denied his motion for postconviction relief in Duval County

Circuit Court case number 97-9405-CF-A. According to Sain, he was not timely served with a copy of the order. As the state has failed to sufficiently refute this assertion, we grant the petition. Upon issuance of mandate in this cause, a copy of this opinion shall be provided to the clerk of the circuit court for treatment as a notice of appeal. See Fla. R. App. P. 9.141(c)(5)(D).

BARFIELD, BENTON and VAN NORTWICK, JJ., concur.