

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

PAUL PRIDGEON,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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

CASE NO. 1D03-2528

Opinion filed October 30, 2003.

Petition for Belated Appeal -- Original Jurisdiction.

George W. Blow, III, Live Oak, for petitioner.

Charlie Crist, Attorney General, and James W. Rogers, Senior Assistant Attorney General, Tallahassee, for respondent.

PER CURIAM.

Paul Pridgeon petitions this court for a belated appeal of denial of his motion for postconviction relief. The motion raised five claims and an order issued on July

30, 2001, which denied four of the claims and deferred the fifth issue to another judge. A motion for rehearing was denied on October 29, 2001. Neither order advised petitioner of his right to appeal or the time for doing so as required by Florida Rule of Criminal Procedure 3.850(g).

This court was concerned that the issue of a belated appeal was premature because no appealable order had yet been entered by the trial court, as the fifth issue was not resolved by the order of July 30, 2001. Upon further consideration, however, it has been determined that the order of October 29, 2001, completely disposed of all issues presented in the motion for postconviction relief and that it was a final order which concluded the proceedings in the lower tribunal. The issue of entitlement to a belated appeal is therefore properly before this court at this time.

The petition is granted and Paul Pridgeon is hereby afforded a belated appeal from denial of postconviction relief in case number 97-08-CF in the Circuit Court for Lafayette County. See State ex rel. Shevin v. District Court of Appeal, Third District, 316 So. 2d 50 (Fla. 1975). Upon issuance of mandate in this cause, a copy of this opinion will be provided to the clerk of the circuit court, and shall be treated as a notice of appeal. Fla. R. App. P. 9.141(c)(5)(D).

PETITION GRANTED.

ALLEN, DAVIS and BENTON, JJ., concur.