

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

GEORGE SILVA,

Appellant,

v.

JAMES V. CROSBY, JR., Secretary,
Department of Corrections,

Appellee.

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

CASE NO. 1D04-2840

Opinion filed February 28, 2005.

An appeal from an order of the Circuit Court for Escambia County.
Frank L. Bell, Judge.

Appellant, pro se.

Louis A. Vargas, General Counsel, and Connie L. Beach, Assistant General Counsel,
Florida Department of Corrections, Tallahassee, for Appellee.

PER CURIAM.

Because the notice of appeal was not timely filed, we are constrained to dismiss this appeal for lack of jurisdiction. However, in light of appellant's allegation that he was not timely provided a copy of the circuit court's order denying his petition below, this disposition is without prejudice to appellant's right to seek relief in the circuit court by motion pursuant to Florida Rule of Civil Procedure 1.540(b). See Brown v. Fla. Parole Comm'n, 763 So. 2d 1262 (Fla. 1st DCA 2000).

ERVIN, KAHN and BENTON, JJ., concur.