

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

DARRELL M. BURKE,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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

CASE NO. 1D05-2487

Opinion filed September 16, 2005.

Petition Alleging Ineffective Assistance of Appellate Counsel -- Original Jurisdiction.

Darrell M. Burke, pro se, petitioner.

Charlie Crist, Attorney General, and Anne C. Conley, Assistant Attorney General,
Tallahassee, for respondent.

PER CURIAM.

Darrell M. Burke previously appealed his judgment and sentence in Escambia County case number 03-0731 in this court's case number 1D03-4909. The ineffective assistance provided to petitioner by his counsel in the appeal resulted in dismissal of

the case for failure to file an initial brief. Accordingly, we now grant the instant petition and order reinstatement of case number 1D03-4909. By separate order, guidance will be provided to appellant, who has not been certified as indigent, regarding prosecution of his appeal.

PETITION GRANTED.

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