

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

JAMES BUTLER,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D05-5002

Opinion filed December 30, 2005.

An appeal from the Circuit Court for Duval County.

L. Page Haddock, Judge.

Appellant, pro se.

Charlie Crist, Attorney General, Tallahassee, for Appellee.

PER CURIAM.

Having considered the appellant's response to this Court's order, dated November 2, 2005, we dismiss this appeal for lack of jurisdiction. The notice of appeal filed on August 8, 2005, appealing the order on the appellant's postconviction motion signed on June 15, 2005, is untimely. Because the notice of appeal was filed more than 30 days after rendition of the order, this Court is without appellate

jurisdiction. See Fla. R. App. P. 9.110(b); Harrelson v. State, 903 So. 2d 267 (Fla. 1st DCA 2005)(citing Proctor v. State, 845 So. 2d 1007 (Fla. 5th DCA 2003). This dismissal is without prejudice to appellant's right to file a petition for belated appeal. Harrelson, 903 So. 2d at 267.

DISMISSED.

BARFIELD, DAVIS, and WOLF, JJ., concur.