

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

MATTHEW JAMES DAILY,

Petitioner,

v.

STATE OF FLORIDA.

Respondent.

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

CASE NO. 1D05-5819

Opinion filed May 8, 2006.

Petition Seeking Belated Appeal -- Original Jurisdiction.

Robin Miller of the Law Office of Robin Miller, P.A., Fort Walton Beach, for
Petitioner.

Charlie Crist, Attorney General, and Tracy Lee Cooper, Assistant Attorney General,
Tallahassee, for Respondent.

PER CURIAM.

The petition is granted and Matthew James Daily is hereby afforded a belated
appeal from the order of the Circuit Court for Okaloosa County, which denied in part

and granted in part postconviction relief after an evidentiary hearing in case numbers 01-1755 and 02-2033. Because Daily was resentenced, the appeal shall be treated as a plenary appeal from judgment and sentence. King v. State, 795 So. 2d 1086 (Fla. 1st DCA 2001).

The court notes that an untimely notice of appeal was filed for review of denial of postconviction relief and assigned this court's case number 1D05-6187. We hereby discharge the outstanding show cause order regarding timeliness in that case, and it shall proceed as a direct criminal appeal in accordance with King.

PETITION GRANTED.

ERVIN, VAN NORTWICK, and BROWNING, JJ., CONCUR.