

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

JAMES E. SMITH,

Appellant,

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

v.

CASE NO. 1D07-3535

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed October 30, 2007.

An appeal from the Circuit Court for Columbia County.
Paul S. Bryan, Judge.

James E. Smith, pro se, Appellant.

Bill McCollum, Attorney General, Tallahassee, for Appellee.

PER CURIAM.

Having considered appellant's response to this Court's order dated September 18, 2007, we dismiss this appeal for lack of jurisdiction.

On November 11, 2005, appellant filed a motion to correct illegal sentence. The trial court denied the motion on September 25, 2006, and appellant filed a motion for rehearing on October 6, 2006. The trial court denied appellant's motion for

rehearing on April 4, 2007. On June 7, 2007, appellant filed a “Motion for Reconsideration of Defendants Motion for Rehearing.” The trial court denied the motion on June 7, 2007, and, on July 3, 2007, the appellant filed a notice of appeal. The notice of appeal is untimely. Appellant’s “Motion For Reconsideration Of Defendant’s Motion For Rehearing,” is an unauthorized motion for rehearing and does not delay rendition of the trial court’s order of September 27, 2006. See Fla. R. App. P. 9.020(h); Morris v. State, 630 So. 2d 232 (Fla. 3d DCA 1994). As such, appellant’s notice of appeal should have been filed within thirty days of the trial court’s denial of appellant’s timely motion for rehearing, filed on October 6, 2006. Fla. R. App. P. 9.140. Because the notice of appeal was filed more than 30 days after rendition of the order and the unauthorized motion for reconsideration did not delay rendition, this Court is without appellate jurisdiction. See Fla. R. App. P. 9.110(b). Any remedy for the trial court’s failure to inform appellant of his appellate rights with regard to the denial of his rule 3.800(a) motion should be sought by way of petition for belated appeal.

DISMISSED.

ALLEN, VAN NORTWICK, and ROBERTS, JJ., CONCUR.