

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D19-1997

JYRONE LUMPKIN,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

Petition Alleging Ineffective Assistance of Appellate Counsel—
Original Jurisdiction.

September 11, 2020

PER CURIAM.

In Case No. 1D15-3431, this court affirmed Mr. Lumpkin's judgment of convictions but reversed his sentence and remanded for resentencing. The trial court subsequently resentenced Mr. Lumpkin, and he did not appeal the new sentence.

Mr. Lumpkin bases the petition in this case only on what he perceives to be appellate counsel's failure to argue certain errors underlying the convictions, which we previously affirmed and which became final on March 7, 2017, when the mandate issued in Case No. 1D15-3431. He had two years from that date to file a petition alleging ineffective assistance of appellate counsel with respect to the appeal of those convictions. *See Fla. R. App. P.*

9.141(d)(5). However, Mr. Lumpkin did not deliver the petition to prison personnel until May 17, 2019, and the petition does not “allege[] under oath with a specific factual basis that [he] was affirmatively misled about the results of the appeal by counsel.” *Id.* The petition, therefore, is untimely filed.

DISMISSED.

BILBREY, WINOKUR, and TANENBAUM, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jyrone Lumpkin, pro se, Petitioner.

Ashley Moody, Attorney General, Tallahassee, for Respondent.