

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D22-828

NICHOLAS BYRAM,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Baker County.
James M. Colaw, Judge.

December 14, 2022

PER CURIAM.

Appellant has filed an appeal of an order denying his motion for postconviction relief as untimely. Without considering the merits of Appellant's motion, for the reasons outlined below, we hold that Appellant filed his motion within the two-year period required by Florida Rule of Criminal Procedure 3.850(b) and remand for further proceedings.

Rule 3.850(b) requires a motion to be brought within two years of the movant's judgment and conviction becoming final. Appellant's convictions and sentences became final when this Court issued its mandate in his direct appeal on March 8, 2019. *See Cave v. State*, 289 So. 3d 980, 981 (Fla. 1st DCA 2020) ("For purposes of this rule, the two-year period begins to run when

appellate proceedings have concluded and the court issues a mandate, or, if no appellate proceedings are initiated, thirty days after the judgment and sentence become final.”). Thus, Appellant had until March 8, 2021, to file any postconviction pleadings under rule 3.850.

Here, the prison mailing stamp on Appellant’s photocopied motion shows that he handed the motion to prison officials for mailing on October 26, 2020. As the State appropriately concedes, the motion was therefore timely. *See Earls v. State*, 958 So. 2d 1153, 1153 (Fla. 1st DCA 2007) (“Under the mailbox rule, the date that a motion is placed into the hands of prison officials for filing is the date that the motion is considered filed.”).

REVERSED and REMANDED for further proceedings consistent with this opinion.

BILBREY, M.K. THOMAS, and LONG, JJ., concur.

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

Nicholas Byram, pro se, Appellant.

Ashley Moody, Attorney General, and Daren L. Shippy, Assistant Attorney General, Tallahassee, for Appellee.