

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2014

MARVIN I. SILVER,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

No. 4D14-3815

[November 26, 2014]

Petition for belated appeal to the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Michael I. Rothschild, Judge; L.T. Case No. 08-15125 CF10A.

Marvin I. Silver, Crawfordville, pro se.

No appearance for respondent.

PER CURIAM.

Petitioner seeks a belated appeal of an order denying his motion for postconviction relief. We deny the petition. The time for filing an appeal expired thirty days after his motion for rehearing was deemed denied pursuant to the provisions of Florida Rule of Criminal Procedure 3.850(j). Petitioner has not shown any ground beyond petitioner's control as to why he could not have filed an appeal within that time.

The trial court denied the motion for postconviction relief on June 4, 2014. Petitioner filed a timely motion for rehearing on June 16, 2014. Rule 3.850(j), effective July 1, 2013, changed the time limits for disposing of a motion for rehearing of a postconviction relief motion: "The trial court's order disposing of the motion for rehearing shall be filed . . . not later than 40 days from the date of the order of which rehearing is sought. **If no order is filed within 40 days, the motion is deemed denied.**" (Emphasis added.) Thus, when the trial court did not rule, the motion for rehearing was deemed denied on July 14, 2014, forty days after the trial court's order denying his Rule 3.850 motion. This rendered the order final for appellate purposes. See Fla. R. App. P. 9.020(i). The thirty-day appeal

time ran from that date and expired on August 13, 2014. Petitioner has provided no circumstances beyond his control or that otherwise interfered with his ability to file a timely appeal by that date. See Fla. R. App. P. 9.141(c)(4)(F)(ii).

Petition denied.

WARNER, TAYLOR and CIKLIN, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.