

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2006

KEITH TRIBBLE,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

No. 4D06-2092

[September 6, 2006]

PER CURIAM.

We grant this petition for belated appeal for the following reasons. On January 13, 2006, the trial court denied petitioner's *pro se* motions which had sought postconviction relief and additional jail credit. On February 6, 2006, petitioner sent a letter to the trial court which stated, "I appeal. But I don't know who to appeal to because no-one has given me this information." The letter went on to request additional time to appeal the court's order. The trial court denied the motion finding it did not have jurisdiction to grant the relief requested.

The jurisdiction of this court to review final orders of the trial court is "invoked by filing 2 copies of a notice, accompanied by filing fees prescribed by law, with the clerk of the lower tribunal within 30 days of rendition of the order to be reviewed." Fla. R. App. P. 9.110(b). Rule 9.110(d) requires that the notice of appeal be "substantially in the form proscribed by rule 9.900(a)." Defects in form of a notice of appeal or failure to file fees or additional copies of the notice, however, are not jurisdictional. See Fla. R. App. P. 9.040(d) & (h). The court is permitted to "disregard any procedural error or defect that does not adversely affect the substantial rights of the parties." Fla. R. App. P. 9.040(d). Further, "[i]f a party seeks an improper remedy, the cause shall be treated as if the proper remedy had been sought." Fla. R. App. P. 9.040(c).

Here, petitioner should have filed a notice of appeal with the clerk of the lower tribunal and did not need to ask for an "extension of time" from the trial court judge to do so. *Pro se* pleadings, however, should be given

liberal construction. *Willis v. State*, 840 So. 2d 1135, 1136 (Fla. 4th DCA 2003). The trial court should have treated petitioner's February 6, 2006 letter, which clearly expressed his desire to appeal, as his notice of appeal from the January 13, 2006 order.

Petition Granted.

GUNTHER, SHAHOOD and MAY, JJ., concur.

* * *

Petition for belated appeal to the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Lucy Chernow Brown, Judge; L.T. Case No. 00-3764 CFA02.

Keith Tribble, San Diego, California, pro se.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Myra Fried, Assistant Attorney General, West Palm Beach, for respondent.

Not final until disposition of timely filed motion for rehearing.