

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

MATTHEW CLARENCE BLACKERT,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D02-2333

Opinion filed May 30, 2003.

Appeal from the Circuit Court for Lee
County; William J. Nelson, Judge.

Matthew Clarence Blackert, pro se.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Susan D. Dunlevy,
Assistant Attorney General, Tampa, for
Appellee.

PER CURIAM.

Matthew Clarence Blackert appeals an order denying his petition for writ of habeas corpus. The "petition" was actually a request for postconviction relief pursuant to Florida Rule of Criminal Procedure 3.850. Upon review of the record, this court determined that the trial court lacked jurisdiction to enter the appealed order because a

direct appeal was pending at that time. Once the direct appeal was concluded, this court relinquished jurisdiction to the trial court to obtain a new order. The trial court entered an appropriate order again denying relief on April 28, 2003. We have now reviewed the petition and the April 28, 2003, order. The trial court correctly denied the motion.

Affirmed.

ALTENBERND, C.J., and SALCINES and VILLANTI, JJ., Concur.