

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

SAM SADLER,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
_____)

CASE NO. 2D01-2275

Opinion filed October 26, 2001.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court
for Hillsborough County;
Jack Espinosa, Jr., Judge.

THREADGILL, Judge.

Sam Sadler appeals the trial court's summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. We treat Sadler's motion as a petition for writ of habeas corpus seeking leave to file a belated postconviction motion and reverse. On remand the trial court shall conduct an evidentiary hearing to determine whether Sadler retained counsel to timely file a rule 3.850 motion and

whether counsel failed to timely file such a motion. See Steele v. Kehoe, 747 So. 2d 931 (Fla. 1999).

Reversed and remanded.

BLUE, C.J., and DAVIS, J., Concur.