

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ERVIN BRADSHAW,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D04-3743

Opinion filed October 15, 2004.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Hillsborough County; Daniel Lee Perry,
Judge.

DAVIS, Judge.

Ervin Bradshaw filed a notice of appeal from the summary denial of his motion for postconviction relief. Subsequently it was discovered that the motion and the order under appeal were lost. Therefore the order appealed from is vacated and this cause is remanded for Bradshaw to refile his motion for postconviction relief within sixty days of the date of the mandate in this case. The trial court shall consider his motion

filed as of the date of the filing of the original motion, April 14, 2004. See Parrish v. Parrish, 389 So. 2d 8 (Fla. 3d DCA 1980).

Vacated and remanded.

CASANUEVA and VILLANTI, JJ., Concur.