

Third District Court of Appeal

State of Florida

Opinion filed October 4, 2017.
Not final until disposition of timely filed motion for rehearing.

No. 3D16-2240
Lower Tribunal No. 04-19972

Ariel Hernandez,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Spencer Eig,
Judge.

Ariel Hernandez, in proper person.

Pamela Jo Bondi, Attorney General, and Jeffrey R. Geldens, Assistant
Attorney General, for appellee.

Before LAGOA, SCALES and LUCK, JJ.

SCALES, J.

Appellant Ariel Hernandez is incarcerated, having pled guilty, in 2012, to second degree murder and sexual battery. In 2015, Hernandez filed a petition for writ of habeas corpus. The trial court denied the petition in an order rendered on July 7, 2016. Upon his receipt of this order, Hernandez mistakenly believed that he was too late to file an appeal. Instead, Hernandez filed a motion in the trial court to extend his appeal period, which the trial court denied on August 24, 2016.¹ Hernandez timely appealed the trial court's denial of this motion.

Pursuant to Florida Appellate Procedure Rule 9.315(a), we summarily affirm the order of the trial court. We do so without prejudice to Hernandez filing an appropriate petition for belated appeal of the July 7, 2016 order. Accordingly, we deny as moot the State's motion to dismiss.

Affirmed.

¹ A circuit court is without jurisdiction to extend the time for taking an appeal. Larrimore v. Moore, 813 So. 2d 963, 963-64 (Fla. 1st DCA 2002).