

# Third District Court of Appeal

## State of Florida

Opinion filed July 25, 2018.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D18-1242  
Lower Tribunal No. 12-2340 C

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**Samuel Lowry,**  
Petitioner,

vs.

**The State of Florida,**  
Respondent.

A Case of Original Jurisdiction – Habeas Corpus.

Samuel Lowry, in proper person

Pamela Jo Bondi, Attorney General, for respondent.

Before ROTHENBERG, C.J., and SUAREZ and SCALES, JJ.

SUAREZ, J.

Samuel Dorsey Lowry seeks a petition for habeas corpus based on ineffective assistance of appellate counsel in his prior appeal from judgment of conviction and sentence. See Lowry v. State, 191 So. 3d 472 (Fla. 3d DCA 2016).

Lowry's direct appeal became final on May 19, 2016. His current petition was put into the correctional facility mailing on June 11, 2018. Florida Rule of Appellate Procedure 9.141(c)(4)(B) states that "[a] petition alleging ineffective assistance of appellate counsel shall not be filed more than 2 years after the conviction becomes final on direct review unless it alleges under oath with a specific factual basis that the petitioner was affirmatively misled about the results of the appeal by counsel."

This petition was filed more than two years after the conviction became final, and Lowry makes no allegation that his counsel affirmatively misled him.<sup>1</sup> We dismiss this petition for habeas corpus as untimely filed.

Dismissed.

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<sup>1</sup> Additionally there is no substantive merit to this petition, as Lowry simply restates issues raised and disposed on direct appeal.