

Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed November 19, 2008.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-2301
Lower Tribunal No. 98-22345

Alex Banegas,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Alan R. Schwartz, Judge.

Alex Banegas, for appellant.

Bill Mc Collum, Attorney General, for appellee.

Before SHEPHERD, CORTIÑAS, and SALTER, JJ.

PER CURIAM.

Alex Banegas petitions this Court for a “second belated appeal” so that he may submit his initial brief. His appeal relates to the trial court’s denial of his

motions under Florida Rules of Criminal Procedure 3.800 and 3.850 in February 2008. Banegas claims to have filed a timely notice of appeal in March 2008, but no such notice was docketed in the circuit court. As a result, his initial brief was initially file-stamped here on March 24, 2008, but then returned to Banegas because no appeal had commenced.

Banegas then filed a petition for belated appeal, our Case No. 3D08-1411, which was granted on June 21, 2008. In his current petition, Banegas claims that he did not receive that order until August, at which point his initial brief was untimely. See Fla. R. App. P. 9.141(b)(2)(C).

Banegas attached a copy of his initial brief to this most recent petition for belated appeal. Pursuant to Rule 9.141(b)(2)(C), we grant the petition for belated appeal. Upon consideration of the brief on the merits, we affirm the order under review.