

In the sworn petition for belated appeal, petitioner alleged that he asked his counsel to file an appeal from his guilty plea. Petitioner's trial counsel denied that any such request for an appeal was made.

To resolve that factual dispute this Court appointed Honorable Mark King Leban to serve as a Commissioner of this Court to take testimony to resolve the factual dispute. See State v. Trowell, 739 So. 2d 77, 81-82 & n. 5 (Fla. 1999); Rios v. Moore, 765 So. 2d 888 (Fla. 3d DCA 2000); Gonzalez v. Singletary, 763 So. 2d 1282, 1283 (Fla. 3d DCA 2000). The Commissioner has submitted his report and recommendation, which is accepted with the thanks of the Court. The Commissioner resolved the dispute in testimony in favor of trial counsel, and concluded that the petitioner "did not ask his attorney to file an appeal" That being so, the petition for belated appeal is denied.