

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2005

MILTON O'NEAL,

Petitioner,

v.

Case No. 5D04-3976

STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed February 4, 2005

Petition Alleging Ineffectiveness
of Appellate Counsel,
A Case of Original Jurisdiction.

Milton O'Neal, Daytona Beach, pro se.

No Appearance for Respondent.

GRIFFIN, J.

Petitioner seeks this court's permission to file a habeas corpus petition alleging ineffective assistance of appellate counsel. Petitioner claims that he asked his post-conviction counsel to file a petition alleging ineffective assistance of appellate counsel. He alleges that he has learned that no such petition was filed, and he petitions for permission to file such a petition beyond the two-year limitation period.

Habeas corpus is no longer the remedy for seeking another appeal. An ineffective assistance of appellate counsel claim is raised pursuant to Florida Rule of Appellate Procedure 9.141(c), and petitioner does not need this court's permission to file an untimely petition alleging ineffective assistance of appellate counsel. Petitioner

should file the petition alleging ineffective assistance of appellate counsel and allege specific facts to show an exception to the two-year limitation period. We accordingly dismiss this petition without prejudice to petitioner to file a petition in accordance with Florida Rule of Appellate Procedure 9.141(c).

DISMISSED.

PETERSON and PLEUS, JJ., concur.