

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

JANUARY TERM 2006

TERRY T. IVEY,

Petitioner,

v.

Case No. 5D05-3365

STATE OF FLORIDA,

Respondent.

Opinion filed January 13, 2006

Petition for Belated Appeal,
A Case of Original Jurisdiction.

Terry T. Ivey, Daytona Beach, pro se.

Charles J. Crist, Jr., Attorney General,
Tallahassee and Kellie A. Nielan,
Assistant Attorney General, Daytona
Beach, for Respondent.

PALMER, J.

Terry Torenzo Ivey has filed a petition with this court seeking a belated appeal. He contends that he is entitled to receive a belated appeal because the trial court's order denying his motion to withdraw his plea did not advise him of his right to appeal and because he did not timely receive a copy of the order. With regard to Ivey's first contention, Ivey is not entitled to receive any relief because there is no requirement that an order denying a motion to withdraw a plea filed pursuant to Florida Rule of Criminal Procedure 3.170(l) must contain a notification of a right to appeal. As for Ivey's second contention, the record does support the claim that he did not timely receive a copy of the trial court's order so that he could file a timely notice of appeal. Defense counsel attempted to send Ivey a copy by Federal Express, but it was sent to the wrong prison

facility. A copy of the order was also sent by the trial court but it was returned as undeliverable. Accordingly, Ivey is entitled to receive a belated appeal.

PETITION GRANTED.

GRIFFIN, J., and PETERSON, E., Senior Judge, concur.