

DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151

February 10, 2012

CASE NO.: 1D11-1226
L.T. No.: 06-3679CFMC

Ahmad J. Smith

v.

State of Florida

Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

Based on the unique and tortured procedural history of this case, we conclude that notwithstanding the decision in Smith v. State, 29 So. 3d 295 (Fla. 1st DCA 2010), a manifest injustice may result if Appellant is not afforded an opportunity to establish his entitlement to a belated appeal based on the facially sufficient allegations of ineffective assistance of trial counsel in his rule 3.850 motion. Accordingly, we treat the motion as a petition seeking a belated appeal in Bay County Circuit Court case number 06-3679-CFMC.

In accordance with Staley v. State, 12 So. 3d 778 (Fla. 1st DCA 2009), we relinquish jurisdiction to the trial court for a period of 60 days for the appointment of a special master to serve as a commissioner of this court. The special master shall conduct an evidentiary hearing and make factual findings on the merits of the alleged ineffective assistance of trial counsel and issue a report and recommendation concerning Appellant's entitlement to a belated appeal based on the findings.

The report and recommendation shall be issued no later than 60 days from the date of this order, and copies thereof shall be served on the clerk of this court, Appellant, the State Attorney, and the Attorney General. Any party adversely affected by the conclusion of the special master may file a response within 10 days of service of the report and recommendation, and the other party may reply within 10 days of service of the response. At that time, this court will issue its order determining whether petitioner is entitled to a belated appeal.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

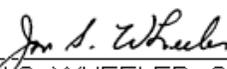
Served:

Hon.Pamela Jo Bondi, A.G.
Hon.Don T.Sirmons, Judge

William Mallory Kent
Hon.Bill Kinsaul, Clerk

Christine Ann Guard, A.A.G.

am



JON S. WHEELER, CLERK

