

THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Benjamin Hopkins v. Ricky Dixon, Etc.

No. 3D25-0607 (Fla. 3d DCA June 11, 2025) · No. 3D25-0607 · Decided June 11, 2025

SUMMARY

The Florida Third District Court of Appeal dismissed Benjamin Hopkins's appeal for lack of jurisdiction. The court held that the notice of appeal was filed more than 30 days after rendition of the amended order denying his petition for a writ of habeas corpus.

CASE DETAILS

|                       |                                                                                                                                                                                   |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Third District Court of Appeal of Florida                                                                                                                                         |
| WRITING FOR THE COURT | Emas; Lindsey; Lobree                                                                                                                                                             |
| JURISDICTION          | Florida Third District Court of Appeal                                                                                                                                            |
| DECIDED               | June 11, 2025                                                                                                                                                                     |
| DOCKET                | 3D25-0607                                                                                                                                                                         |
| DISPOSITION           | dismissed                                                                                                                                                                         |
| PROCEDURAL POSTURE    | Appeal from an amended order denying a petition for writ of habeas corpus; the appeal was dismissed for lack of appellate jurisdiction because the notice of appeal was untimely. |
| STANDARD OF REVIEW    | The court applied the jurisdictional thirty-day filing requirement for a notice of appeal; no merits standard of review was reached.                                              |
| PRECEDENTIAL VALUE    | Published opinion                                                                                                                                                                 |
| PARTIES               | Benjamin Hopkins v. Ricky D. Dixon, Secretary of the Florida Department of Corrections, Ricky Dixon, etc., et al.                                                                 |

TOPICS

- appellate jurisdiction
- appellate procedure
- state post-conviction relief
- civil procedure

PRACTICE AREAS

- appellate procedure
- habeas corpus
- post-conviction relief

QUESTIONS PRESENTED

1. Whether the district court had jurisdiction over an appeal filed more than thirty days after rendition of the order appealed from.

## HOLDINGS

1. A notice of appeal that is not filed within thirty days after rendition of the order appealed from does not invoke appellate jurisdiction, requiring dismissal of the appeal.

## KEY QUOTATIONS

*“The time for taking an appeal is a jurisdictional requirement established by Florida Rule of Appellate Procedure 9.110(b). Where the notice of appeal is not filed within thirty days of rendition, the appellate court is precluded from exercising jurisdiction over the appeal.” (at 1)*

## FACTUAL BACKGROUND

Hopkins sought habeas corpus relief in the circuit court. After the circuit court denied his petition in an amended order rendered February 14, 2025, he filed a notice of appeal on March 28, 2025.

## PROCEDURAL HISTORY

The Circuit Court for Miami-Dade County rendered an amended order denying Hopkins's petition for writ of habeas corpus on February 14, 2025. Hopkins filed a notice of appeal on March 28, 2025. The Third District Court of Appeal dismissed the appeal because the notice was not filed within thirty days after rendition of the order.

## DISPOSITION

dismissed

## CASES CITED

- Am. Auto. Ass'n v. C.D.S. Towing & Recovery Inc., 805 So. 2d 1064, 1065 (Fla. 3d DCA 2002)
- Tyler v. State, Governor Chiles, 718 So. 2d 811, 812 (Fla. 2d DCA 1997)

## OPINION

Benjamin Hopkins v. Ricky Dixon, Etc.

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed June 11, 2025. Not final until disposition of timely filed motion for rehearing. \_\_\_\_\_ No. 3D25-0607 Lower Tribunal No. F24-13346 \_\_\_\_\_ Benjamin Hopkins, Appellant, vs. Ricky Dixon, etc., et al., Appellees. An Appeal from the Circuit Court for Miami-Dade County, Carlos Lopez, Judge. Benjamin Hopkins, in proper person. James Uthmeier, Attorney General, and Christopher M. Sutter, Senior Assistant Attorney General (Ft. Lauderdale), for appellee Ricky D. Dixon, Secretary of the Florida Department of Corrections. Before EMAS, LINDSEY, and LOBREE, JJ. PER

CURIAM. Appellant Benjamin Hopkins filed a Notice of Appeal on March 28, 2025, seeking relief from the trial court's "Amended Order Denying Petition for Writ of Habeas Corpus." That Order was rendered February 14, 2025. Because this Notice of Appeal was not filed within 30 days of rendition of the Order appealed, we are compelled to dismiss the appeal for lack of jurisdiction. See Fla. R. App. P. 9.110(b); *Am. Auto. Ass'n v. C.D.S. Towing & Recovery Inc.*, 805 So. 2d 1064, 1065 (Fla. 3d DCA 2002) ("The time for taking an appeal is a jurisdictional requirement established by Florida Rule of Appellate Procedure 9.110(b). Where the notice of appeal is not filed within thirty days of rendition, the appellate court is precluded from exercising jurisdiction over the appeal." (quoting *Tyler v. State, Governor Chiles*, 718 So. 2d 811, 812 (Fla. 2d DCA 1997))). Dismissed. 2