

SIXTH DISTRICT COURT OF APPEAL OF FLORIDA

Louis Burney v. State of Florida

Case No. 6D2023-1733; Lower Tribunal No. 2014-CF-012314-A-O · No. 6D2023-1733 · Decided June 30, 2025

SUMMARY

The Sixth District Court of Appeal held that the trial court lacked jurisdiction to rule on the merits of Louis Burney’s Florida Rule of Criminal Procedure 3.850 claims concerning retrospective competency proceedings while Burney’s direct appeal from the retrospective competency order was pending. The court vacated the relevant trial court rulings, remanded for dismissal without prejudice to refile after the direct appeal, and affirmed the remaining rulings.

CASE DETAILS

COURT	Sixth District Court of Appeal of Florida
WRITING FOR THE COURT	Gannam, J.; Nardella, J.; White, J.
JURISDICTION	Sixth District Court of Appeal of Florida
DECIDED	June 30, 2025
DOCKET	6D2023-1733
DISPOSITION	other
PROCEDURAL POSTURE	Burney appealed the summary denial of two grounds of a twice-amended Florida Rule of Criminal Procedure 3.850 motion for postconviction relief. The grounds alleged ineffective assistance of conflict counsel concerning retrospective competency proceedings, while a direct appeal from the retrospective competency order was pending or had been properly initiated.
STANDARD OF REVIEW	The opinion does not expressly state a standard of review.
PRECEDENTIAL VALUE	Published opinion; precedential value subject to finality after the rehearing period.
PARTIES	Louis Burney v. State of Florida

TOPICS

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

PRACTICE AREAS

Florida criminal procedure

state postconviction relief

appellate jurisdiction

QUESTIONS PRESENTED

1. Whether the trial court had jurisdiction to rule on the merits of Rule 3.850 claims concerning retrospective competency proceedings after Burney had invoked appellate jurisdiction from the retrospective competency order.
2. Whether Burney's pro se motion for an extension of time to file a notice of appeal constituted sufficient and timely notice of his intent to invoke appellate jurisdiction despite the involvement of conflict counsel.
3. Whether the trial court's rulings on the remaining Rule 3.850 claims should be disturbed.

HOLDINGS

1. Once Burney invoked the Sixth District's appellate jurisdiction from the retrospective competency order, the trial court lacked jurisdiction to rule on the merits of the Rule 3.850 claims directed to those proceedings, and any such ruling was a nullity.
2. Burney's pro se motion for an extension of time to file a notice of appeal was not a nullity and provided sufficient, timely notice of his intent to invoke appellate jurisdiction because it clearly indicated that he had discharged conflict counsel and identified his intent to appeal.
3. Dismissal of the Rule 3.850 claims concerning retrospective competency proceedings was without prejudice to refiling if Burney was unsuccessful in his direct appeal, and the refiling would not be subject to Rule 3.850(h)'s successive-motion restrictions.

KEY QUOTATIONS

"Thus, the trial court lacked jurisdiction to rule on the merits of Burney's Rule 3.850 motion as to the retrospective competency proceedings, and any such ruling is a nullity." (at 1-2)

"Such dismissal is without prejudice to Burney's refiling a Rule 3.850 motion as to the retrospective competency proceedings, if unsuccessful in his direct appeal, without any Rule 3.850(h) successive motion restrictions." (at 2)

FACTUAL BACKGROUND

Burney's postconviction claims alleged ineffective assistance by court-appointed conflict counsel in connection with retrospective competency proceedings. Those proceedings had been mandated by the Fifth District after an earlier appeal concerning a pretrial competency determination. Before the trial court ruled on the Rule 3.850 claims directed to the retrospective competency proceedings, Burney filed a pro se motion that sufficiently manifested his intent to invoke the Sixth District's appellate jurisdiction from the retrospective competency order.

PROCEDURAL HISTORY

The Fifth District previously directed retrospective competency proceedings in a prior post-judgment appeal. Burney later filed a Rule 3.850 motion raising claims concerning those proceedings and other stages of the criminal case. The trial court ruled on the motion, but the Sixth District held that the trial court lacked jurisdiction to rule on the merits of the claims concerning the retrospective competency proceedings because Burney had already invoked appellate jurisdiction from the retrospective competency order. The appellate court vacated the relevant rulings, remanded for dismissal without prejudice, and affirmed in all other respects.

DISPOSITION

other

REMAND INSTRUCTIONS

Vacate the trial court's rulings on the Rule 3.850 motion to the extent they concern the retrospective competency proceedings, and remand for the trial court to dismiss those portions of the motion without prejudice. Burney may refile those claims if unsuccessful in his direct appeal, without Rule 3.850(h) successive-motion restrictions.

CASES CITED

- Burney v. State, 247 So. 3d 650, 651-52 (Fla. 5th DCA 2018)
- Daniels v. State, 712 So. 2d 765, 765-66 (Fla. 1998)
- Logan v. State, 846 So. 2d 472, 478 (Fla. 2003)
- Whitt v. State, 984 So. 2d 1278 (Fla. 1st DCA 2008)
- Tribble v. State, 936 So. 2d 788, 788 (Fla. 4th DCA 2006)

OPINION

Louis Burney v. State of Florida

PER CURIAM.

SIXTH DISTRICT COURT OF APPEAL

STATE OF FLORIDA

_____ Case No. 6D2023-1733 Lower Tribunal No. 2014-CF-012314-A-O _____

LOUIS BURNEY,

Appellant, v.

STATE OF FLORIDA,

Appellee. _____ Appeal from the Circuit Court for Orange County.

Luis F. Calderon, Judge. June 30, 2025 GANNAM, J. Louis Burney appeals the trial court’s summary denial of two grounds of his motion for postconviction relief under Florida Rule of Criminal Procedure 3.850. Both grounds claim ineffective assistance of his court-appointed conflict counsel as to retrospective competency proceedings mandated by the Fifth District in a prior post-judgment appeal from a pretrial competency determination. See Burney v. State,

247 So. 3d 650, 651–52 (Fla. 5th DCA 2018). At the time of his Rule 3.850 motion, however, Burney had already invoked this Court’s jurisdiction in a direct appeal from the trial court’s retrospective competency order. 1 Thus, the trial court lacked jurisdiction to rule on the merits of Burney’s Rule 3.850 motion as to the retrospective competency proceedings, and any such ruling is a nullity. See *Daniels v. State*, 712 So. 2d 765, 765 (Fla. 1998). Accordingly, we vacate the trial court’s rulings in the order on appeal and any prior order on Burney’s Rule 3.850 motion, as to the retrospective competency proceedings, and we remand for the trial court to dismiss the Rule 3.850 motion to the same extent.² Such dismissal is without prejudice to Burney’s refiling a Rule 3.850 motion as to the retrospective competency proceedings, if unsuccessful in his 1 Within thirty days after the retrospective competency order, Burney filed in the trial court a pro se “motion for extension of time to file a timely notice of appeal,” advising the court he was “now acting pro se” and “conflict counsel did not file a timely notice of appeal,” though his appeal deadline had not yet run. After the deadline had run, the trial court issued a notice advising Burney that it would not consider the motion because Burney was represented. Under the circumstances, however, Burney’s motion was not a nullity because it clearly indicated his discharge of conflict counsel. See *Logan v. State*, 846 So. 2d 472, 478 (Fla. 2003). The motion otherwise provided sufficient, timely notice of Burney’s intent to invoke this Court’s appellate jurisdiction. See *Whitt v. State*, 984 So. 2d 1278 (Fla. 1st DCA 2008) (“The circuit court is directed to treat petitioner’s . . . motion for enlargement of time as a timely notice of appeal”); *Tribble v. State*, 936 So. 2d 788, 788 (Fla. 4th DCA 2006) (“Defects in form of a notice of appeal or failure to file fees . . . are not jurisdictional.”); Fla. R. App. P. 9.040 (“[T]he court may disregard any procedural error or defect that does not adversely affect the substantial rights of the parties.”). By separate order, we provide direction to the trial court clerk regarding its Florida Rule of Appellate Procedure 9.040(g) duties as to the notice of appeal. 2 The trial court made several procedural and merits rulings on Burney’s twice-amended Rule 3.850 motion, which included grounds directed to pretrial, trial, and sentencing proceedings, as well as the subsequent retrospective competency proceedings. 2 direct appeal, without any Rule 3.850(h) successive motion restrictions. See *Daniels*,

712 So. 2d at 765–66. We affirm in all other respects.

AFFIRMED in part; VACATED in part; REMANDED with instructions. NARDELLA and WHITE, JJ., concur. Blair Allen, Public Defender, and Richard J. Sanders, Assistant Public Defender, Bartow, for Appellant. James Uthmeier, Attorney General, Tallahassee, and Alyssa M. Williams, Assistant Attorney General, Daytona Beach, for Appellee.

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING
AND DISPOSITION THEREOF IF TIMELY FILED

