

Third District Court of Appeal

State of Florida, July Term, A.D. 2009

Opinion filed December 23, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-2222
Lower Tribunal No. 05-16273

Jean Norvilus,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Diane Ward,
Judge.

Jean Norvilus, in proper person, for appellant.

Bill McCollum, Attorney General, and Forrest L. Andrews, Jr., Assistant
Attorney General, for appellee.

Before RAMIREZ, C.J., and SHEPHERD and ROTHENBERG, JJ.

PER CURIAM.

The defendant, Jean Norvilus, appeals a trial court order denying his motion to withdraw his guilty plea because it was untimely. Norvilus pled guilty to second-degree murder and the trial court sentenced him to a twenty-five-year minimum mandatory sentence on June 16, 2008. On July 15, 2008, Norvilus submitted his motion to withdraw his guilty plea to the South Florida Reception Center for mailing. The clerk of the court filed the motion on July 25, 2008. In its order, the trial court stated the defendant's motion was filed on July 25, 2008, and denied it as untimely.

When a pro se inmate files a motion, the mailbox rule applies, in which the motion is deemed to be filed at the moment the inmate loses control over the document by entrusting its further delivery or processing to agents of state. Hagg v. State, 591 So. 2d 614, 617 (Fla. 1992). Thus, Norvilus's motion is deemed to be filed on the date he handed the motion to the South Florida Reception Center, which was July 15, 2008. Because Norvilus filed within thirty days of the date of sentencing, pursuant to Florida Rule of Criminal Procedure 3.170(1), we reverse for further proceedings on the merits.