

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

JULY TERM 2009

EUGENE JENERETTE,

Petitioner,

v.

Case No. 5D09-2566

STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed August 28, 2009

Petition for Writ of Mandamus,
Warren Burk, Respondent Judge.

Eugene Jenerette, Wewahitchka, pro se.

No appearance for Respondent.

PER CURIAM.

We treat Jenerette's petition for mandamus as a notice of appeal from the trial court's order denying his motion for postconviction relief pursuant to Florida Rule of Criminal Procedure 3.850. As the trial court correctly concluded that Jenerette's motion was untimely and successive, we affirm.

AFFIRMED.

LAWSON, EVANDER and COHEN, JJ., concur.