

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

JANUARY TERM 2010

ORLANDO COTTO-MARCANO,
Petitioner,

v.

Case No. 5D10-246

STATE OF FLORIDA,
Respondent.

_____ /

Opinion filed February 12, 2010

Petition for Belated Appeal,
A Case of Original Jurisdiction.

Orlando Cotto-Marcano, Orlando, pro se.

No Appearance for Respondent.

PER CURIAM.

Orlando Cotto-Marcano seeks a belated appeal pursuant to Florida Rule of Appellate Procedure 9.141. However, nowhere in the instant petition does Cotto-Marcano allege that he timely requested that his trial counsel appeal and trial counsel failed to do so as required by rule 9.141(c)(3)(F).

Additionally, the petition was not sworn to as required by Florida Rule of Appellate Procedure 9.141(c)(3)(F). An affirmation that the statements made in the petition are "true and correct to the best of my knowledge" is not an adequate oath. See *Moore v. State*, 910 So. 2d 947 (Fla. 5th DCA 2005).

Therefore, we deny the petition because it is facially insufficient. See *Abbot v. State*, 929 So. 2d 723, 723 (Fla. 5th DCA 2006); *Cosby v. State*, 911 So. 2d 275, 275

(Fla. 5th DCA 2005). Cotto-Marcano shall have thirty (30) days in which to file a legally sufficient amended petition.

PETITION DENIED WITHOUT PREJUDICE.

MONACO, C.J., GRIFFIN and LAWSON, JJ., concur.