

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

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

ALLEN A. CLEMENS,

Appellant,

v.

Case No. 5D15-3032

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed November 20, 2015

3.801 Appeal from the Circuit
Court for Lake County,
Lawrence J. Semento, Judge.

Allen A. Clemens, Crawfordville, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Marjorie Vincent-Tripp,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Allen A. Clemens appeals the summary denial of his Florida Rule of Criminal Procedure 3.801(a) motion seeking additional jail credit. The trial court denied the motion without attaching any records to refute Clemens' claim. As the State properly concedes, this was error. "When a rule 3.801 motion is summarily denied based on the records in the case, a copy of the portion of the files and records that conclusively show that the defendant is not entitled to relief shall be attached to the final order." Romine v. State,

151 So. 3d 553, 553 (Fla. 5th DCA 2014) (citing Fla. R. Crim. P. 3.850(f)(5) (incorporated in Florida Rule of Criminal Procedure 3.801(e))). While the trial court may be correct that Clemens received the proper amount of credit, on the record before us, it is impossible to verify. Accordingly, we reverse and remand with instructions to either grant the motion or attach portions of the record to its final order conclusively showing that Clemens is not entitled to relief. See id. at 554.

REVERSED AND REMANDED.

LAWSON, C.J., EVANDER and BERGER, JJ., concur.