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

DAVID ALLEN EVERETT, JR.,

Appellant,

v. Case No. 5D19-1082

STATE OF FLORIDA,

Appellee.

_____/

Opinion filed October 18, 2019

3.850 Appeal from the Circuit Court for Citrus County, Richard A. Howard, Judge.

David Allen Everett, Jr., Live Oak, pro se.

Ashley Moody, Attorney General, Tallahassee, and Carmen F. Corrente, Assistant Attorney General, Daytona Beach, for Appellee.

PER CURIAM.

Appellant appeals the postconviction court's summary denial of his Florida Rule of Criminal Procedure 3.850 motion. We affirm.

In his postconviction motion, Appellant argued that his counsel was ineffective for failing to fully advise him of the terms of his global plea; specifically, how much credit for time served he would receive in each of three criminal cases. The postconviction court

summarily denied the motion, reasoning that counsel was not required to advise of credit for time served because jail credit was not a direct consequence of the plea. This was error. See Reyna v. State, 18 So. 3d 1131, 1133 (Fla. 2d DCA 2009) ("Credit for time served, or jail credit, is a direct consequence of a plea because it affects the range of punishment—in this case, the length of [the defendant's] incarceration—in a definite manner, immediately and automatically upon imposition of a sentence.").

However, Appellant has not claimed that, but for his counsel's alleged misadvice, he would have insisted on proceeding to trial. Rather, Appellant explicitly denied any desire to withdraw his plea and requested only to alter its terms. Thus, Appellant has not alleged the prejudice necessary to support his ineffectiveness claim. See Hill v. Lockhart, 474 U.S. 52, 58–59 (1985). Accordingly, we affirm the summary denial of his postconviction motion.

AFFIRMED.

COHEN, EDWARDS and GROSSHANS, JJ., concur.