NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED

OF FLORIDA

SECOND DISTRICT

TROY E. HALE,)
Appellant,)
v.) Case No. 2D14-549
STATE OF FLORIDA,)
Appellee.)
)

Opinion filed September 18, 2015.

Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Lee County; Bruce E. Kyle, Judge.

KHOUZAM, Judge.

Troy Hale appeals the order denying his motion for jail credit under Florida Rule of Criminal Procedure 3.801. We affirm without prejudice to Hale's right to file a timely motion under rule 3.850. See Johnson v. State, 60 So. 3d 1045, 1052 (Fla. 2011). We caution, however, that "[w]hen a criminal defendant seeks to withdraw a negotiated plea, or to attack it collaterally, if he is successful he loses the benefit of the bargain he has elected to attack." Id. (quoting Moreland v. Smith, 664 So. 2d 1039, 1040 (Fla. 2d DCA 1995)).

CRENSHAW and MORRIS, JJ., Concur.