

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

| | | |
|-------------------|---|--------------------|
| DOUGLAS SMITH, |) | |
| |) | |
| Appellant, |) | |
| |) | |
| v. |) | CASE NO. 2D04-1724 |
| |) | |
| STATE OF FLORIDA, |) | |
| |) | |
| Appellee. |) | |
| _____ |) | |

Opinion filed February 23, 2005.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Polk County; Roger Allan Alcott,
Judge.

KELLY, Judge.

Douglas Smith appeals the denial of his motion for jail credit filed pursuant to Florida Rule of Criminal Procedure 3.800(a). We affirm. See Blake v. State, 807 So. 2d 772 (Fla. 2d DCA 2002). Our affirmance is without prejudice to any right Smith may have to file a timely rule 3.850 motion for postconviction relief. Any such motion will not be deemed successive.

Affirmed.

WHATLEY and CANADY, JJ., Concur.