

Third District Court of Appeal

State of Florida, January Term, A.D. 2011

Opinion filed March 23, 2011.

Not final until disposition of timely filed motion for rehearing.

No. 3D11-286
Lower Tribunal No. 08-123

James E. Daniels,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Marisa Tinkler Mendez, Judge.

James Edward Daniels, in proper person.

Pamela Jo Bondi, Attorney General, for appellee.

Before GERSTEN, WELLS, and SALTER, JJ.

WELLS, Judge.

This is an appeal of an order summarily denying a motion under Florida Rule of Criminal Procedure 3.800(a), claiming that he is entitled to additional jail credit.

Appellant maintains that court records establish his entitlement to 108 days served, however he was incorrectly awarded 69 days for time served. On appeal from a summary denial, this Court must reverse unless the postconviction record, see Fla. R.App. P. 9.141(b)(2)(A), shows conclusively that the appellant is entitled to no relief. See Fla. R.App. P. 9.141(b)(2)(D). Because the record now before us fails to make the required showing, we reverse the order and remand for further proceedings. Varela v. State, 29 So. 3d 398, 399 (Fla. 3d DCA 2010). If the trial court enters an order summarily denying the postconviction motion, the court shall attach record excerpts conclusively showing that the appellant is not entitled to the credit for time served as sought.

Reversed and remanded.