

Third District Court of Appeal

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

Opinion filed December 28, 2011.
Not final until disposition of timely filed motion for rehearing.

No. 3D11-2401
Lower Tribunal No. 09-28710B

Patrick Crawford,
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, Leon Firtel, Judge.

Patrick Crawford, in proper person.

Pamela Jo Bondi, Attorney General, and Heidi Milan Caballero, Assistant Attorney General, for appellee.

Before SHEPHERD, SUAREZ, and SALTER, JJ.

SHEPHERD, J.

The defendant, Patrick Crawford, appeals a summary denial of his motion to correct illegal sentence, filed pursuant to Florida Rule of Criminal Procedure 3.800, in which he seeks additional credit for jail time served. On December 6, 2010, the defendant admitted to violating his probation in exchange for “thirty months in state prison with credit from the last booking date.” In his motion, the defendant seeks an additional 415 days of credit for time spent incarcerated prior to his violation of probation, arguing he never waived this credit.

As this argument is not cognizable under a rule 3.800(a) motion, we affirm without prejudice for the defendant to file a timely Florida Rule of Criminal Procedure 3.850 motion challenging his plea on this basis, should he choose to do so. See Johnson v. State, 60 So. 3d 1045 (Fla. 2011) (holding that challenges to plea agreement provisions concerning credit for time served are not cognizable in rule 3.800(a) motions because they present factual questions that cannot be resolved on the basis of trial court records.)

Affirmed without prejudice.