

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 E. JONES,

Appellant,

v.

Case No. 5D14-252

STATE OF FLORIDA,

Appellee.

Opinion filed August 1, 2014

3.801 Appeal from the Circuit
Court for Hernando County,
Anthony M. Tatti, Judge.

David E. Jones, Century, pro se.

Pamela Jo Bondi, Attorney
General, Tallahassee, and Allison
Leigh Morris and Ann Phillips,
Assistant Attorneys General,
Daytona Beach, for Appellee.

ORFINGER, J.

We reverse the trial court's order summarily denying David E. Jones's motion for additional jail credit pursuant to Florida Rule of Criminal Procedure 3.801. Rule 3.801, which governs jail credit claims, requires the defendant to raise the claim within one year after the sentence becomes final. However, the rule further provides that "[f]or sentences

imposed prior to July 1, 2013, a motion under this rule may be filed on or before July 1, 2014.” Fla. R. Crim. P. 3.801(b). Jones’s sentence became final on October 26, 2012, and he filed the rule 3.801 motion on November 4, 2013. Thus, as the State properly concedes, the provision applies, and the trial court erred in denying Jones’s motion as untimely. Nevertheless, the motion is deficient as it did not include the requisite oath pursuant to rule 3.801(c). Because the motion is compliant in all other respects, Jones is entitled to an opportunity to amend his motion pursuant to rule 3.801(e). See Fla. R. Crim. P. 3.801(e) (incorporating Florida Rule of Criminal Procedure 3.850(f)); Fla. R. Crim. P. 3.850(f)(2) (providing that if motion is facially insufficient, trial court must give defendant 60 days to amend).

For these reasons, we reverse and remand with directions to the trial court to strike the rule 3.801 motion for failure to include the requisite oath, and afford Jones an opportunity to file an amended motion compliant with the rule.

REVERSED and REMANDED.

EVANDER and WALLIS, JJ., concur.