

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

JOHNATHAN LEE CRAWFORD,

Appellant,

v.

Case No. 5D19-3058

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed February 28, 2020

3.800 Appeal from the Circuit
Court for Brevard County,
Nancy Maloney, Judge.

Johnathan Crawford, Lake City, pro se.

No Appearance for Appellee.

SASSO, J.

Johnathan Lee Crawford challenges the summary denial of his “Motion to Correct Illegal Sentence,” filed pursuant to Florida Rule of Criminal Procedure 3.800, in which he seeks additional jail and prison credit. For the reasons that follow, we reverse.

First, although the postconviction court properly treated Crawford's request for additional jail credit as one pursuant to Florida Rule of Criminal Procedure 3.801,¹ the court erred in denying relief for the stated reason that the attachments to Crawford's motion did not establish entitlement to jail credit for the time period at issue. See *Adkins v. State*, 183 So. 3d 1102, 1104 (Fla. 5th DCA 2015) ("Under Rule 3.801, a defendant does not have to affirmatively allege that the court records demonstrate on their face an entitlement to relief, nor does a defendant have to attach any documentation to support his or her claim . . ."). Rule 3.801 incorporates Florida Rule of Criminal Procedure 3.850(f), which states that if a defendant files a legally sufficient motion, the trial court should grant the additional credit or conduct an evidentiary hearing, unless the motion can be conclusively refuted either as a matter of law or by reliance upon the records in the case. See Fla. R. Crim. P. 3.850(f)(5). However, because Crawford's motion was unsworn, in contravention of rule 3.801(c), his motion was legally insufficient such that he should have been provided the opportunity to amend. See Fla. R. Crim P. 3.850(f)(2). Accordingly, we reverse the order summarily denying Crawford's request for jail credit and remand with directions that the postconviction court provide him sixty days to amend his motion, if he can do so in good faith. See, e.g., *Smith v. State*, 268 So. 3d 241 (Fla. 5th DCA 2019).

Second, Crawford's request for additional prison credit was properly filed pursuant to rule 3.800(a). *Monroe*, 270 So. 3d at 514 n.1. Even so, the postconviction court did not address this request. Because the record does not conclusively demonstrate that

¹ A request for prison credit is governed by rule 3.800(a), whereas a request for jail credit is governed by rule 3.801. See *Monroe v. State*, 270 So. 3d 513, 514 n.1 (Fla. 2d DCA 2019).

Crawford is entitled to no relief as to his request for prison credit, we reverse. See Fla. R. App. P. 9.141(b)(2)(A) and (D). Upon remand, the court should address Crawford's claim for prison credit.

REVERSED and REMANDED.

COHEN and TRAVER, JJ., concur.