

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

CHRISTOPHER MCDONALD,

Appellant,

v.

Case No. 5D20-518

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed August 14, 2020

3.801 Appeal from the Circuit
Court for Brevard County,
Tesha Ballou, Judge.

Matthew R. McLain, of McLain Law, P.A.,
Longwood, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Pamela J. Koller,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Christopher McDonald appeals the summary denial of his Florida Rule of Criminal Procedure 3.801 motion for additional jail credit. We reverse and remand.

In his postconviction motion, McDonald argued that he did not receive jail credit for the 246 days between his March arrest in Broward County and his November transfer to Brevard County. To support his claim, McDonald attached an affidavit of arrest from

Broward County indicating that he was arrested on both a local charge and an outstanding warrant/capias from Brevard County. The trial court summarily denied McDonald's motion, attaching to the order a probable cause affidavit that includes a "Date of Arrest" in 2015, a "Jail Date" in November 2018, and a statement that appears to simply list the charges and notes a failure to appear. This appeal followed.

Governing motions for jail credit, "Florida Rule of Criminal Procedure 3.801(e) . . . require[s] the postconviction court to attach to its order records that conclusively refute [the defendant's] claims." Gibbs v. State, 175 So. 3d 915, 918 (Fla. 2d DCA 2015). As relevant here, "[w]hen a defendant is actually arrested in one county on an arrest warrant issued by another county, the defendant is entitled to credit for jail time served in the county of arrest." Id. at 917.

In this case, the limited record does not conclusively refute McDonald's facially sufficient claim that he was arrested in Broward County on both Broward and Brevard charges and entitled to further jail credit. See Elkins v. State, 884 So. 2d 499, 499–500 (Fla. 5th DCA 2004). Accordingly, we reverse and remand for further proceedings.

REVERSED and REMANDED.

EDWARDS, EISNAUGLE, and GROSSHANS, JJ., concur.