

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2003

GEORGE EDMUND MCALLISTER,

Appellant,

v.

Case No. 5D02-3747

STATE OF FLORIDA,

Appellee.

Opinion filed March 28, 2003

3.800 Appeal from the Circuit Court
for Hernando County,
Jack Springstead, Judge.

George Edmund McAllister, Sneads, pro se.

Charles J. Crist, Jr., Attorney General, Tallahassee
and Rebecca Roark Wall, Assistant Attorney
General, Daytona Beach, for Appellee.

PALMER, J.

George Edmund McAllister (defendant) appeals the trial court's order denying his rule 3.800(a) motion, in which he asserted he was entitled to receive additional jail time credit for the time he spent incarcerated prior to sentencing on his violation of probation. See Fla. R. Crim. P. 3.800(a). We affirm.

The trial court, in a form order, denied the defendant's motion with a notation "previously denied." However, the court order contains no attachments of any prior orders or other documents supporting the determination that the defendant's motion was previously denied or otherwise refuting the defendant's claim. The denial of a rule 3.800(a) motion as successive must include an attachment of the prior motion and order. See Lewis v. State, 730 So. 2d 823 (Fla. 5th DCA 1999). On the other hand, the defendant's

motion is facially insufficient because it fails to allege that the record on its face demonstrates an entitlement to relief. See State v. Mancino, 714 So. 2d 429 (Fla. 1998); Toomajan v. State, 785 So. 2d 1275 (Fla. 5th DCA 2001).

Accordingly, the trial court's denial of the defendant's rule 3.800(a) motion is affirmed, but without prejudice to the defendant filing a facially sufficient motion.

AFFIRMED.

SHARP, W. and ORFINGER, JJ., concur.

