

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

TONY J. HARRIS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

CASE NO. 1D02-5135

Opinion filed November 25, 2003.

An appeal from the Circuit Court for Escambia County.  
Kenneth B. Bell, Judge.

Nancy A. Daniels, Public Defender; P. Douglas Brinkmeyer, Assistant Public  
Defender, Tallahassee, for Appellant.

Charlie Crist, Attorney General; Alan R. Dakan, Assistant Attorney General,  
Tallahassee, for Appellee.

PER CURIAM.

The parties agree that the appellant would be entitled to discharge if the sheriff's  
office did not receive a warrant for his arrest for violation of probation prior to the  
conclusion of his probationary period. See, e.g., McNeal v. State, 741 So. 2d 1205,  
1206 (Fla. 1st DCA 1999). Appellant has neither supplemented the record on appeal

to establish that the sheriff's office received the warrant after January 31, 1999, however, nor even alleged that the warrant was received after that date. Consequently, we are obligated to affirm. But our decision is without prejudice to the right of the appellant to present pursuant to Florida Rule of Criminal Procedure 3.850(a)(3) any claim that the court below lacked jurisdiction.

Affirmed.

ALLEN, DAVIS, and BENTON, JJ., CONCUR.