

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2014

OCTAVIA MATHIS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D14-170

[June 17, 2014]

Appeal of order denying rule 3.800 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Matthew I. Destry, Judge; L.T. Case Nos. 10-007670 CF10A, 10-006582 CF10A, 10-005387 CF10A, 10-005106 CF1A, 09-023186 CF10A.

Octavia Mathis, Quincy, pro se.

Pamela Jo Bondi, Attorney General, Tallahassee, and Angela E. Noble, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Octavia Mathis appeals a circuit court order that summarily denied her motion for jail time credit filed pursuant to Florida Rule of Criminal Procedure 3.800(a). The September 2013 motion should have been filed under the newly-enacted Florida Rule of Criminal Procedure 3.801, which became effective on July 1, 2013. Considering rule 3.801, appellant's motion is timely and it contains the requisite oath. However, it did not comply with the requirements of rule 3.801. Notably, appellant failed to address whether she waived any jail credit at sentencing, particularly in light of her plea. *See Fla. R. Crim. P. 3.801(c)(5)*. *See also Johnson v. State*, 60 So. 3d 1045, 1051 (Fla. 2011).

Consequently, we affirm without prejudice for appellant to file a sworn and legally sufficient rule 3.801 motion within the time remaining under the rule. Fla. R. Crim. P. 3.801(b) ("For sentences imposed prior to July 1, 2013, a motion under this rule may be filed on or before July 1, 2014.").

Affirmed without prejudice.

WARNER, CIKLIN and CONNER, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.