

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

DAVID NEVERSON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D14-4490

[July 1, 2015]

Appeal of order denying rule 3.801 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Jeffrey R. Levenson, Judge; L.T. Case Nos. 08-23414CF10A, 09-12670CF10A and 11-15622CF10A.

David Neverson, Malone, pro se.

Pamela Jo Bondi, Attorney General, Tallahassee, and Mark J. Hamel, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

We affirm the summary denial of appellant's rule 3.801 motion for additional jail credit but for reasons other than those relied on by the trial court. In *Neverson v. State*, 141 So. 3d 626 (Fla. 4th DCA 2014), this Court affirmed the denial of a prior rule 3.800 motion without prejudice for appellant to file a timely and legally sufficient rule 3.801 motion. *Id.* at 626. Appellant filed a timely motion in the trial court. The court summarily denied the motion adopting the State's response, which mistakenly asserted that the motion was successive. *See* Fla. R. Crim. P. 3.801(d) (prohibiting successive rule 3.801 motions). The motion was not impermissibly successive.

We agree with the State's response in this appeal that appellant's claim for time served on community control lacks merit. *Young v. State*, 697 So. 2d 75, 76 (Fla. 1997). We conclude that appellant's other claims for additional jail credit are legally insufficient as he failed to provide under oath the information required by the rule. *See* Fla. R. Crim. P. 3.801(c).

Affirmed.

TAYLOR, MAY and DAMOORGIAN, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.