

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

JOSEPH MARK WALLER,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D16-1268

[September 21, 2016]

Appeal of order denying rule 3.801 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Krista Marx, Judge; L.T. Case Nos. 502003CF004232A and 502008CF011907A.

Joseph M. Waller, Crawfordville, pro se.

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

PER CURIAM.

Joseph Mark Waller appeals an order denying in part a Rule 3.801 motion for correction of jail credit. We reverse in part.

Waller's motion requested credit for 360 days spent in jail from July 15, 2009, until July 9, 2010. The trial court was correct that he is not entitled to credit for the portion of that time spent in the drug farm program imposed as a condition of his probation pursuant to a negotiated plea. *Carrier v. State*, 925 So. 2d 386, 387 (Fla. 4th DCA 2006).

However, a letter from the Sheriff's Office and records from the jail attached to the motion indicate that from July 15, 2009, until August 28, 2009, Waller was in jail or in a Drug Education Dorm *awaiting placement* in the drug farm program. He is entitled to credit for time served in jail while awaiting placement in the treatment program. *LaLonde v. State*, 941 So. 2d 586, 587 (Fla. 4th DCA 2006). Because an evidentiary hearing may be needed to resolve this issue, we reverse and remand for further proceedings.

WARNER, GROSS and FORST, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.