

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**ZEFFERY LUNDY,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D18-2008

[October 10, 2018]

Appeal of order denying 3.801 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Michael I. Rothschild, Judge; L.T. Case Nos. 10-018165CF10B and 16-004031CF10A.

Zeffery Lundy, Milton, pro se.

Pamela Jo Bondi, Attorney General, Tallahassee, and Allan R. Geesey, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Appellant Zeffery Lundy appeals the circuit court's order denying his Florida Rule of Criminal Procedure 3.801 motion for correction of jail credit. He contends that he is entitled to an additional 238 days of credit on his sentence for violation of probation.

Absent from his motion were the required allegations on whether he waived any county jail credit at the time of the sentencing and, if so, the number of days waived. See Fla. R. Crim. P. 3.801(c)(5). Instead of allowing appellant leave to amend to cure this deficiency, the trial court attached appellant's plea form and denied the motion on its merits. The court found appellant waived any claim to additional jail credit. However, a jail credit waiver must be specific, voluntary, and clear from the face of the record. See, e.g., *Wolter v. State*, 219 So. 3d 852, 853 (Fla. 4th DCA 2017). The plea form here did not satisfy this requirement.

Because appellant's motion was facially insufficient, the circuit court should have stricken it and given appellant leave to amend within sixty days. See, e.g., *Lopez v. State*, 248 So. 3d 1204, 1205 (Fla. 4th DCA 2018)

(citations omitted). Accordingly, we reverse and remand for the circuit court to enter an order striking the motion as facially insufficient and granting appellant sixty days to amend it to provide the information specified in rule 3.801(c) and this opinion.

*Reversed and remanded for proceedings consistent with this opinion.*

LEVINE, FORST and KUNTZ, JJ., concur.

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***Not final until disposition of timely filed motion for rehearing.***