

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

ANTHONY HOSKINS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D18-2413

[December 19, 2018]

Appeal of order denying rule 3.801 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Barbara Anne McCarthy, Judge; L.T. Case Nos. 14-5075CF10A and 14-14619CF10A.

Anthony Hoskins, Bonifay, pro se.

Pamela Jo Bondi, Attorney General, Tallahassee, and Alexandra A. Folley, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

After a fifth violation of probation, Appellant Anthony Hoskins was sentenced to 30 months in prison with 52 days of jail credit. Hoskins filed a Florida Rule of Criminal Procedure 3.801 motion seeking additional jail credit for time spent in jail following previous violations of probation.¹ The trial court summarily denied the 3.801 motion. Its order failed to attach any documents refuting Hoskins' claim. As the State concedes on appeal, this was reversible error, requiring remand.

"Pursuant to Florida Rule of Criminal Procedure 3.801(e), which incorporates Florida Rule of Criminal Procedure rule 3.850(f), the circuit court was required to attach records which conclusively refuted the defendant's motion seeking additional jail credit." *Williams v. State*, 141 So. 3d 686, 687 (Fla. 4th DCA 2014); Fla. R. Crim. P. 3.850(f)(5) ("If the denial is based on the records in the case, a copy of that portion of the files and records that conclusively shows that the defendant is entitled to no

¹ Hoskins' motion claims that he had previously been in jail multiple times for violations of probation, but had only been awarded jail credit for the last jail stay.

relief shall be attached to the final order.”).

As noted above, the State concedes that the trial court’s order does not comply with the Rule. Accordingly, we reverse and remand for an evidentiary hearing or for the attachment of records conclusively refuting Hoskins’ claim for additional jail credit.

Reversed and remanded.

GERBER, C.J., FORST and KUNTZ, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.