

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2005

DAVID SAINVAL,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D05-2340

[September 7, 2005]

PER CURIAM.

We affirm the trial court's denial of appellant's Florida Rule of Criminal Procedure 3.800 motion because the issue involved, the waiver of additional jail credit, requires an evidentiary hearing. This affirmance is without prejudice to Sainval filing a motion seeking additional jail credit pursuant to Florida Rule of Criminal Procedure 3.850, within the time remaining under that rule. *Autrey v. State*, 736 So.2d 94 (Fla. 4th DCA 1999).

STEVENSON, C.J., WARNER and SHAHOOD, JJ., concur.

* * *

Appeal of order denying rule 3.800(a) motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Stephen A. Rapp, Judge; L.T. Case No. 99-3419 CFA02.

David Sainval, Arcadia, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.