

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2006*

**ROBERT CRISWELL,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D06-2473

[December 6, 2006]

PER CURIAM.

Appellant Robert Criswell appeals the summary denial of his rule 3.800(a) motion to correct illegal sentence. Criswell alleged that the trial court failed to direct the Department of Corrections (DOC) to calculate time he previously served in prison when sentencing him for violation of probation.

On the sentencing documents, the court awarded Criswell 140 days of jail credit for time served, but did not check off the box beside the paragraph for awards of credit so as to direct the DOC to compute and apply credit for prison time served pursuant to section 921.0017, Florida Statutes. Further, the trial judge's comments at sentencing revealed that he did not intend to direct the DOC to calculate credit for time Criswell previously spent in prison.

The trial court erred in denying the motion based on a response by the State that the DOC actually had applied the credit for time served in prison. The release date noted by the State would not reflect that credit. We find the motion legally sufficient and the error clear on the face of the record. *See Johnson v. State*, 881 So. 2d 88 (Fla. 5th DCA 2004). The order denying relief is therefore reversed and the case remanded to the trial court for correction of Criswell's sentence.

*Reversed and Remanded.*

STEVENSON, C.J., GUNTHER and GROSS, JJ., concur.

\* \* \*

Appeal of order denying rule 3.800(a) motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Krista Marx, Judge; L.T. Case No. 94-5202 CFA02.

Robert Criswell, Sanderson, pro se.

Charles J. Crist, Jr., Attorney General, Tallahassee, and James J. Carney, Assistant Attorney General, West Palm Beach, for appellee.

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