

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2009

ISAAC E. ELBAZ,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-4297

[August 19, 2009]

PER CURIAM.

Appellant brought two claims in a motion filed under Florida Rule of Criminal Procedure 3.800(a). First, he alleges that he did not receive proper credit for time spent in jail in Dade and Broward counties in two cases—one from 2002, for which he was placed on probation, and another from 2006, which was used to violate his probation. Second, he contends that his violation of probation sentence is illegal because he was not given credit for the time he served on probation when the court imposed a split sentence on October 18, 2007.

We reverse and remand for the trial court to reconsider the jail credit claim in light of the jail records attached to appellant's motion. See *Bonilla v. State*, 884 So. 2d 1072 (Fla. 5th DCA 2004); *McPherson v. State*, 750 So. 2d 125 (Fla. 2d DCA 2000). At that time, the circuit court should also consider the merits of the second claim, which was not previously addressed by the court. See *Waters v. State*, 662 So. 2d 332 (Fla. 1995); *Meador v. State*, 665 So. 2d 344 (Fla. 4th DCA 1995).

GROSS, C.J., WARNER and TAYLOR, JJ., concur.

* * *

Appeal of order denying rule 3.800 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Jeffrey R. Levenson, Judge; L.T. Case Nos. 02-19629CF10A and 06-20396CF10A.

Isaac E. Elbaz, Malone, pro se.

Bill McCollum, Attorney General, Tallahassee, and Jeanine M. Germanowicz, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.