

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2010*

**ANDREA KELLY,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D09-2770

[June 16, 2010]

POLEN, J.

Appellant, Andrea Kelly, appeals the trial court's order summarily denying her rule 3.800(a) motion to correct illegal sentence in which she alleged she was due seventy (70) days credit for time served but was given only forty-seven (47) days credit. The trial court summarily denied the motion stating that Kelly had agreed to be given only forty-seven (47) days credit for time served when she entered a plea agreement with the State. However, the order did not include any record attachments refuting the claim. *Seymour v. State*, 24 So. 3d 794, 794-95 (Fla. 5th DCA 2009).

Therefore, we reverse the trial court's order summarily denying Kelly's rule 3.800(a) motion and remand for the trial court to either attach the portions of the record which refute Kelly's claim or to grant the appropriate relief.

*Reversed and remanded.*

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

\* \* \*

Appeal of order denying rule 3.800 motion from the Circuit Court for the Nineteenth Judicial Circuit, Martin County; Steven J. Levin, Judge; L.T. Case No. 07-872 CF.

Andrea Kelly, Fort Lauderdale, pro se.

Bill McCollum, 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.***