

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

NIXON JOSEPH,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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Case No. 2D13-5704

Opinion filed May 9, 2014.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Lee County; Edward J. Volz, Jr., Judge.

SILBERMAN, Judge.

We reverse the postconviction court's order denying Nixon Joseph's motion filed under Florida Rule of Criminal Procedure 3.801 as untimely filed.

Mr. Joseph's sentence became final on April 28, 2012, before the enactment of rule 3.801 on July 1, 2013. He filed his motion on September 25, 2013. At the time that Mr. Joseph filed his motion, rule 3.801(b) recited that "[n]o motion shall be filed or considered pursuant to this rule if filed more than 1 year after the sentence becomes final." When the postconviction court entered its order on October 15, 2013, the rule had not yet been amended to extend the filing limit for defendants whose

sentences became final before July 1, 2013. Defendants in Mr. Joseph's position, rather than being foreclosed from seeking correction of jail credit, now have until July 1, 2014, to file their motions. See In re Amendments to Florida Rules of Criminal Procedure and Florida Rules of Appellate Procedure, 132 So. 2d 734 (Fla. 2013) ("The rule provides a one-year grace period for sentences imposed prior to July 1, 2013.").

Accordingly, we reverse the order denying Mr. Joseph's motion and remand for the postconviction court to consider the merits of the motion.

Reversed and remanded.

WALLACE and CRENSHAW, JJ., Concur.