

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

DANIEL ALLEN BUTLER,)

Petitioner,)

v.)

STATE OF FLORIDA,)

Respondent.)

Case No. 2D03-4139

Opinion filed September 10, 2004.

Petition of Writ of Certiorari to the Circuit
Court for Pasco County; Michael F.
Andrews, Acting Circuit Judge.

Daniel Allen Butler, pro se.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and William I. Munsey,
Assistant Attorney General, Tampa, for
Respondent.

NORTHCUTT, Judge.

In this certiorari proceeding Daniel Butler challenges the circuit court's
denial of his motion to reduce, mitigate, or modify his sentence filed pursuant to Florida

Rule of Criminal Procedure 3.800(c). Butler contended he was entitled to credit against his prison sentence for time spent in jail awaiting sentencing. We deny the petition for writ of certiorari. See Brantley v. Holloway, 685 So. 2d 31 (Fla. 2d DCA 1996). We note, however, that Butler's argument is cognizable under rule 3.800(a). See Tinker v. State, 870 So. 2d 79 (Fla. 2d DCA 2003). Our disposition is without prejudice to Butler's right to file a motion for relief under that rule.

Petition for certiorari denied.

CANADY and VILLANTI, JJ., Concur.