

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ERIN PATRICK FINAN,)	
)	
Appellant,)	
)	
v.)	Case No. 2D05-4862
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
)	
_____)	

Opinion filed April 5, 2006.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Hillsborough County; Emmett Lamar
Battles, Judge.

WHATLEY, Judge.

Erin Patrick Finan appeals an order that grants a portion of his motion for jail credit and denies the remainder of his motion which was filed pursuant to Florida Rule of Criminal Procedure 3.800(a). In his motion, Finan claims that he is entitled to an additional 120 days' jail credit for time spent in county jail between August 25, 1997, and December 22, 1997, in circuit court cases 97-02181, 97-06595, 97-06613, 97-13652, and 97-14787. We affirm, without comment, the postconviction court's order as

it relates to circuit court cases 97-06595, 97-06613, and 97-13652, but we reverse as to circuit court cases 97-02181 and 97-14787.

In addressing circuit court case 97-02181, the postconviction court stated that the records showed Finan was in county jail for seventy-nine days between February 8, 1997, and April 27, 1997, for fifty-seven days between April 29, 1997, and June 24, 1997, and that he was entitled to 136 days' jail credit. Because Finan received only 134 days' jail credit, the postconviction court awarded Finan two additional days' jail credit in circuit court case 97-02181. However, the State concedes that Finan is entitled to jail credit for eighty-five days between February 2, 1997, and April 27, 1997, for fifty-four days between May 2, 1997, and June 24, 1997, and for one day on December 22, 1997, in circuit court case 97-02181. Therefore, based on the ambiguity between the State's response and the jail credit awarded, we reverse with directions for the postconviction court to reconsider whether Finan is entitled to the additional jail credit conceded by the State for six days between February 2, 1997, and February 7, 1997, and for one day on December 22, 1997, in circuit court case 97-02181. If the postconviction court again denies relief, it shall attach to its order those portions of the record which conclusively resolve the claim.¹

In addressing circuit court case 97-14787, the postconviction court stated that the records showed Finan was in county jail for 120 days between August 25, 1997,

¹ We note that jail credit issues involving disputed issues of fact are not appropriate for resolution on a motion filed pursuant to rule 3.800(a) and are matters that can only be resolved pursuant to rule 3.850. See Clifton v. State, 905 So. 2d 1042, 1044 (Fla. 2d DCA 2005); see also Blake v. State, 807 So. 2d 772 (Fla. 2d DCA 2002); Daniels v. State, 825 So. 2d 499 (Fla. 2d DCA 2002). However, based on the limited record that is before this court, we cannot determine whether Finan's claim can be conclusively resolved based on the record documents.

and December 22, 1997, and that he was entitled to and received 120 days' jail credit. However, the documents attached to the postconviction court's order do not support its findings. The record shows that Finan only received one day of jail credit in circuit court case 97-14787. Additionally, the State concedes that Finan is entitled to 120 days' jail credit in circuit court case 97-14787. Accordingly, we reverse and remand for the postconviction court to award Finan an additional 119 days' jail credit in circuit court case 97-14787.

Reversed and remanded.

STRINGER and CANADY, JJ., Concur.