

# Third District Court of Appeal

## State of Florida

Opinion filed September 16, 2015.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D14-1726  
Lower Tribunal No. 06-CF-1440-K

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**Enrique Davalos,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) for Monroe County, Tegan Slaton, Judge.

Enrique Davalos, in proper person.

Pamela Jo Bondi, Attorney General, and Magaly Rodriguez, Assistant Attorney General, for appellee.

Before WELLS, EMAS and FERNANDEZ, JJ.

FERNANDEZ, J.

Enrique Davalos appeals the summary denial of his motion to correct illegal

sentence, pursuant to Florida Rule of Criminal Procedure 3.801. We reverse the denial of Davalos' motion, and remand to the trial court for further proceedings.

On February 17, 2009, Davalos received a sentence of 33.75 months in prison, followed by 26.25 months probation, with credit for 804 days for time served. Davalos served his prison sentence after which he was released on August 14, 2009 to serve his probationary period and an INS Detainer. Davalos subsequently violated his probation and entered a plea of partial admission to the violations. The court revoked Davalos' probation and, on April 16, 2014, Davalos received a sentence of five years in prison, followed by eight years probation.

Davalos alleges and the State concedes that there is a jail credit discrepancy between the jail credit awarded in February 2009 and April 2014. Upon the imposition of the new sentence in April 2014, Davalos received jail credit for 711 days. Specifically, he received jail credit for 668 days from April 22, 2007 to February 17, 2009 and 43 days from March 5, 2014 to April 16, 2014. Thus, there is a 93-day discrepancy for which remand is warranted. See Williams v. State, 768 So. 2d 1195, 1196 (Fla. 2d DCA 2000).

We therefore reverse the denial of Davalos' 3.801 motion, and remand for the trial court to either provide record attachments that explain the discrepancy in the amount of jail credit awarded or correct Davalos' jail credit.

Reversed and remanded for further proceedings.