

# **Third District Court of Appeal**

## **State of Florida**

Opinion filed November 12, 2015.

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No. 3D15-1445  
Lower Tribunal No. 11-27169

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**Jovany Quintero,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Diane V. Ward, Judge.

Jovany Quintero, in proper person.

Pamela Jo Bondi, Attorney General, and Sandra Lipman, Assistant Attorney General, for appellee.

Before ROTHENBERG, SALTER and SCALES, JJ.

PER CURIAM.

## ON CONFESSION OF ERROR

Appellant Jovany Quintero appeals from the trial court's May 29, 2015 order denying rehearing of Quintero's rule 3.800(a) motion to correct an illegal sentence. On the State's proper confession of error, we reverse and remand with directions for the trial court first to determine whether Quintero is entitled to credit for time previously served in state prison between October 25, 2012, and August 4, 2013 (the "State Incarceration Period").

If the trial court finds that Quintero is entitled to a credit for the State Incarceration Period, then the trial court should determine whether Quintero waived the credit for the State Incarceration Period.

If the trial court finds that Quintero did not waive the credit for the State Incarceration Period, then the trial court should address whether the written sentence specifically directed the Department of Corrections to calculate this credit and provide it to the trial court.

If the trial court finds that there is either a waiver of credit for the State Incarceration Period, or the written sentence directs the Department of Corrections to calculate and provide the credit for the State Incarceration Period, then the trial court should issue a new order, attaching the requisite documents.

If the trial court finds that there is no waiver of the credit for the State Incarceration Period and the written sentence does not direct the Department of Corrections to calculate and provide the credit, then the trial court should enter a corrected sentence directing the Department of Corrections to calculate and provide the credit for the State Incarceration Period.

Reversed and remanded.