

# Third District Court of Appeal

State of Florida, July Term, A.D. 2007

Opinion filed October 3, 2007.

Not final until disposition of timely filed motion for rehearing.

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No. 3D07-1695

Lower Tribunal No. 06-36255

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**Pierre A. Roche,**  
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, Reemberto Diaz, Judge.

Pierre A. Roche, in proper person.

Bill McCollum, Attorney General, and Juliet S. Fattel, Assistant Attorney General, for appellee.

Before GREEN, WELLS and SUAREZ, JJ.

PER CURIAM.

Pierre A. Roche appeals from an order summarily denying his motion for jail time credit under Florida Rule of Criminal Procedure 3.800. On appeal from a

summary denial, this Court must reverse unless the postconviction record, see Fla. R. App. P. 9.141(b)(2)(A), shows conclusively that the appellant is entitled to no relief. See Fla. R. App. P. 9.141(b)(2)(D).

Because we cannot determine from the lower court's order or record attachments whether the defendant waived his credit for time served, we reverse and remand for an evidentiary hearing or other appropriate relief. If the trial court again enters an order summarily denying the post conviction motion, the court shall attach record excerpts conclusively showing that the appellant waived jail credit at sentencing, or, if he did not, the trial court shall award proper credit for the time the defendant spent in jail.

Reversed and remanded for further proceedings.