

Third District Court of Appeal

State of Florida, July Term, A.D. 2009

Opinion filed November 4, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D09-2692
Lower Tribunal Nos. 00-28631; 99-42673

Alonzie Wiggins,
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, Ellen Sue Venzer, Judge.

Alonzie Wiggins, in proper person.

Bill McCollum, Attorney General, for appellee.

Before COPE, WELLS and CORTIÑAS, JJ.

COPE, J.

This is an appeal after remand in Wiggins v. State, 7 So. 3d 634 (Fla. 3d DCA 2009). Defendant-appellant Alonzie Wiggins filed a motion to modify sentence in which he requested additional credit for time served. The argument the defendant made in his motion was that his two trial court cases, Miami-Dade County Circuit Court case numbers 99-42673 and 00-28631, should be treated as being coterminous. On remand, the trial court entered an order explaining that the two cases are not coterminous. Based on the wording of the defendant's motion, the trial court's ruling is correct.

In his brief, the defendant appears to make a different argument. As we understand it, the claim is that upon violation of probation in the 1999 case, he was in custody in that case for twenty-eight months and did not receive the appropriate credit. If that is the defendant's claim, our affirmance is without prejudice to his filing a new motion for credit for additional jail time served.

Affirmed.