

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION  
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, A.D. 2001

ARISTIDES ESPINOSA,

\*\*

Appellant,

\*\*

CASE NO. 3D01-1232

\*\*

vs.

\*\*

THE STATE OF FLORIDA,

\*\*

LOWER TRIBUNAL

Appellee.

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CASE NOS. 94-38354  
94-38051  
94-36352

Opinion filed September 19, 2001.

An Appeal under Fla.R.App.P. 9.141(b)(2) from the Circuit  
Court of Dade County, Pedro P. Echarte, Jr., Judge.

Aristides Espinosa, in proper person.

Robert A. Butterworth, Attorney General, for appellee.

Before SCHWARTZ, C.J., and FLETCHER, and RAMIREZ, JJ.

PER CURIAM.

Aristides Espinosa asserts that he should have been given  
credit for time spent in prison for his original offenses prior to  
his re-arrest and resentencing upon violation of community control.  
The State concedes that if Espinosa did not waive his prison credit  
at resentencing, he must be given credit for that time. We remand  
this cause to the trial court to determine the appropriate credit

for time served to be applied to the actual sentence Espinosa was to receive under his plea upon violation of community control, and to resentence Espinosa accordingly. The defendant need not be present for resentencing.

Reversed and remanded.