

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, A.D. 2004

OSCAR E. MOLINA, IV,	**	
Appellant,	**	
vs.	**	CASE NO. 3D03-1076
THE STATE OF FLORIDA,	**	LOWER
Appellee.	**	TRIBUNAL NO. 99-959

Opinion filed March 17, 2004.

An Appeal under Fla.R.App.P. 9.141(b)(2) from the Circuit Court for Monroe County, Mark Jones, Judge.

Bennett H. Brummer, Public Defender and Roy A. Heimlich, Assistant Public Defender, for appellant.

Charles J. Crist, Jr. and Fredericka Sands, Assistant Attorney General, for appellee.

Before SCHWARTZ, C.J., and COPE and SHEPHERD, JJ.

PER CURIAM.

We agree that the defendant was not entitled to credit for time served in an in-patient drug treatment program as required as a condition of his probation. Pennington v. State, 398 So. 2d 815 (Fla. 1981); Smith v. State, 849 So. 2d 409 (Fla. 4th DCA 2003); Toney v. State, 817 So. 2d 924 (Fla. 2d DCA 2002).

Affirmed.