

# Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed October 22, 2008.

Not final until disposition of timely filed motion for rehearing.

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No. 3D07-2702

Lower Tribunal No. 02-8037

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**Ozzie Atkins,**  
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.

Ozzie Atkins, in proper person.

Bill McCollum, Attorney General, and Rolando A. Soler, Assistant Attorney General, for appellee.

Before RAMIREZ and ROTHENBERG, JJ., and SCHWARTZ, Senior Judge.

PER CURIAM.

Ozzie Atkins appeals the trial court's summary denial of his pro se petition for writ of mandamus. As per the State of Florida's response, we remand Atkins'

case to the trial court to treat Atkins' petition for writ of mandamus as a motion for additional credit for time served, filed pursuant to Florida Rule of Criminal Procedure 3.800(a). On remand, the trial court may determine whether the April 26, 2006 plea colloquy establishes that Atkins waived any further credit for time served as part of his plea agreement.

Reversed and remanded with instructions.