

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.

No. 3D08-443

Lower Tribunal No. 98-18044

Roberto Clavijo,

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, Dava J. Tunis, Judge.

Roberto Clavijo, in proper person.

Bill McCollum, Attorney General, for appellee.

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

PER CURIAM.

On September 18, 2007, in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, Roberto Clavijo filed a pro se “Motion for Jail Credit,”

which was, in essence, a motion for credit for time served. The record indicates that on October 12, 2007, the Miami-Dade circuit court judge assigned to the case, for reasons unknown, treated Clavijo's motion as a motion for gain time and transferred the case to the Second Judicial Circuit in and for Leon County, Florida. The circuit court judge entered a second order on January 30, 2008, again transferring the action to the Second Judicial Circuit.

Clavijo now appeals the January 30, 2008, order transferring his case. We reverse and remand to the Eleventh Judicial Circuit, with instructions for the court to treat Clavijo's September 18, 2007 motion as a motion for credit for time served.

Reversed and remanded with instructions.