

# Third District Court of Appeal

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

Opinion filed June 18, 2008.

Not final until disposition of timely filed motion for rehearing.

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No. 3D08-929

Lower Tribunal No. 01-1199

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**Eloy T. Fernandez,**  
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.

Eloy T. Fernandez, in proper person.

Bill McCollum, Attorney General, and Richard L. Polin, Chief Assistant Attorney General, for appellee.

Before GERSTEN, C.J., and RAMIREZ, J., and SCHWARTZ, Senior Judge.

PER CURIAM.

This is an appeal of an order summarily denying a motion under Florida Rule of Criminal Procedure 3.800(a), in which the defendant sought additional

credit for time served in jail. On appeal from a summary denial, this court must reverse unless the postconviction record, see Fla. R. App. P. 9.141(b)(2)(A), shows conclusively that the appellant is entitled to no relief. See Fla. R. App. P. 9.141(b)(2)(D).

Because the record now before us fails to make the required showing, we reverse the order and remand for recalculation of the award for jail time credit or attachment of record excerpts conclusively showing that the defendant is not entitled to any relief.

Reversed and remanded for further proceedings.