

Third District Court of Appeal

State of Florida, January Term, A.D. 2009

Opinion filed April 8, 2009.

Not final until disposition of timely filed motion for rehearing.

No. 3D09-557

Lower Tribunal No. 05-7648

Desmond Mattison,
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, Marisa Tinkler Mendez, Judge.

Desmond Mattison, in proper person.

Bill McCollum, Attorney General, for appellee.

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

WELLS, J.

Desmond Mattison appeals from an order summarily denying his Florida Rule of Criminal Procedure 3.800(a) motion for additional credit for time served. On appeal from a summary denial, this court must reverse unless the postconviction record shows conclusively that the appellant is entitled to no relief. See Fla. R. App. P. 9.141(b)(2)(A), (D).

Because the record now before us fails to conclusively refute the defendant's claim, we reverse the order and remand for further proceedings. If the trial court again enters an order summarily denying the motion, the court shall attach record excerpts conclusively showing that the appellant is entitled to no relief. See Taylor v. State, 970 So. 2d 370, 371 (Fla. 3d DCA 2007); Dorn v. State, 928 So. 2d 507, 508 (Fla. 3d DCA 2006); Lee v. State, 907 So. 2d 1264, 1265 (Fla. 3d DCA 2005).

Reversed and remanded for further proceedings.