

**Third District Court of Appeal**  
**State of Florida, January Term, A.D. 2009**

Opinion filed June 17, 2009.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D09-634  
Lower Tribunal No. 07-30230

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**David S. Sims,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Nushin G. Sayfie, Judge.

David S. Sims, in proper person.

Bill McCollum, Attorney General, for appellee.

Before RAMIREZ, SHEPHERD, and SUAREZ, JJ.

ON MOTION FOR REHEARING

SUAREZ, J.

We grant David S. Sims' Motion for Rehearing, withdraw our previously issued per curiam opinion dated April 29, 2009, and replace it with the following:

David S. Sims appeals from the denial of his Florida Rule of Criminal Procedure 3.800(a) motion to correct his sentence to reflect eighty-four days of credit for time served for criminal contempt of court. Because the record now before us fails to conclusively refute the appellant's claim, we reverse the order and remand for further proceedings. If the trial court again enters an order summarily denying the postconviction motion, the court shall attach record excerpts conclusively showing that the appellant is not entitled to any relief. See Fla. R. App. P. 9.141(b)(2)(D) (requiring reversal by this Court unless the record shows conclusively that the defendant is entitled to no relief).

Reversed and remanded for further proceedings.