

Third District Court of Appeal

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

Opinion filed November 4, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D09-2597
Lower Tribunal No. F06-29768

Hector Chavez,
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, Roberto M. Pineiro, Judge.

Hector Chavez, in proper person.

Bill McCollum, Attorney General, for appellee.

Before COPE, WELLS and CORTIÑAS, JJ.

PER CURIAM.

This is an appeal of an order summarily denying a motion for postconviction relief under Florida Rule of Criminal Procedure 3.800. Defendant-appellant Hector Chavez entered into a negotiated plea and was sentenced to ten years in prison followed by eight years of probation followed by two years of community control. The written sentencing order specifies “no credit time served per court.” Defendant-appellant alleges that he is entitled to credit for five hundred sixty-four days served in county jail prior to sentencing. The postconviction record now before us does not contain the plea colloquy or the written plea agreement.

On appeal from an order summarily denying a motion for postconviction relief, this court is required to reverse unless the postconviction record conclusively shows that the defendant is not entitled to any relief. Fla. R. App. P. 9.141(b)(2)(D). We therefore reverse the order now before us and remand for further proceedings. If the trial court again denies relief, it shall attach record excerpts conclusively showing that the defendant is not entitled to any relief.

Reversed and remanded for further proceedings consistent herewith.