

Third District Court of Appeal

State of Florida, January Term, A.D. 2010

Opinion filed April 14, 2010.
Not final until disposition of timely filed motion for rehearing.

No. 3D09-2699
Lower Tribunal Nos. 08-45130, 08-28053, and 08-13061

Widtsen Gabriel a/k/a Winston Gabriel
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, David C. Miller, Judge.

Widtsen Gabriel a/k/a Winston Gabriel, in proper person.

Bill McCollum, Attorney General, for appellee.

Before COPE, GERSTEN, and LAGOA, JJ.

PER CURIAM.

Widtsen Gabriel (“the defendant”) appeals the denial of his motion to correct sentence to reflect jail time credit. We affirm without prejudice.

Here, the defendant's motion states only that he was arrested on August 1, 2008 and was released on probation on October 16, 2008. This is insufficient to state a claim for jail time credit. Fla. R. Crim. P. 3.800. However, the defendant should be given an opportunity to amend his motion. See Spera v. State, 971 So. 2d 754 (Fla. 2007).

Accordingly, we affirm the denial of the defendant's motion because it is legally insufficient.

Affirmed.