

# Third District Court of Appeal

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

Opinion filed March 31, 2010.

Not final until disposition of timely filed motion for rehearing.

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No. 3D10-154

Lower Tribunal No. 89-27519

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**Randy Martin,**  
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.

Randy Martin, in proper person.

Bill McCollum, Attorney General, for appellee.

Before, COPE, ROTHENBERG, and SALTER, JJ.

PER CURIAM.

Affirmed.

COPE, J. (concurring).

The trial court's order is in error in stating that the motion to correct illegal sentence dated December 4, 2009, raises the same issue as an earlier rule 3.800(a) motion filed by defendant-appellant Martin on November 14, 2009.

In the current motion the defendant's claim is that the Department of Corrections has not provided him with proper credit for prison time (not jail time) served between his original sentencing date of January 9, 1990 and the August 4, 1995 resentencing. However, the resentencing was nunc pro tunc to January 9, 1990, and the Department of Corrections' calculation attached to the defendant's motion appears to me to be correct. If the defendant believes it is not correct, then the defendant must exhaust his administrative remedies through the inmate grievance procedure in the Department of Corrections. See Salazar v. State, 892 So. 2d 545 (Fla. 3d DCA 2005).

Because the correct result was reached by the trial court, I join the affirmance.