

# 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. 3D10-514

Lower Tribunal Nos. 08-29592 & 08-47140

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**Vincent Capers a/k/a Vincent Romel Capers,**  
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, John W. Thornton, Judge.

Vincent Capers a/k/a Vincent Romel Capers, in proper person.

Bill McCollum, Attorney General, for appellee.

Before SHEPHERD, CORTIÑAS, and ROTHENBERG, JJ.

PER CURIAM.

The defendant, Vincent Capers a/k/a Vincent Romel Capers, appeals the

trial court's order summarily denying his motion to correct illegal sentence as to amount of credit for time served under Florida Rule of Criminal Procedure 3.800(a). On appeal from a summary denial, this Court must reverse unless the post-conviction record shows conclusively that the defendant is entitled to no relief. See Fla. R. App. P. 9.141(b)(2)(D).

The defendant has raised a facially sufficient claim for rule 3.800(a) relief that the trial court, by summarily denying the motion, has failed to conclusively refute. Because the record now before us fails to make the required showing, we reverse the order and remand for further proceedings. On remand, if the trial court again enters an order denying the post-conviction motion, the trial court shall attach written portions of the record conclusively refuting the defendant's claim. 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.