

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2010

ANTONIO MENDEZ,

Appellant,

v.

Case No. 5D10-1417

STATE OF FLORIDA,

Appellee.

_____ /

Decision filed August 6, 2010

3.800(a) Appeal from the Circuit
Court for Orange County,
Robert J. Egan, Judge.

Antonio Mendez, Daytona Beach, pro se.

No Appearance for Appellee.

PER CURIAM.

We affirm the denial of the Appellant's motion to correct illegal sentence, which he filed pursuant to Florida Rule of Criminal Procedure 3.800(a). We do so without prejudice to the Appellant to file a legally sufficient rule 3.800(a) motion that affirmatively demonstrates from the face of the record that he is entitled to the additional jail credit he seeks. In this case, that means he must allege where in the record information can be found that demonstrates he served time in the Lake County Jail solely because of an Orange County detainer. See Ponce v. State, 24 So. 3d 724 (Fla. 4th DCA 2009); Harnage v. State, 946 So. 2d 598 (Fla. 4th DCA 2006). Alternatively, if the Appellant

believes an evidentiary hearing is necessary to resolve his claim, he may file a properly sworn rule 3.850 motion. Because the time for filing a rule 3.850 motion expired while this appeal was pending, any rule 3.850 motion must be filed within thirty (30) days of the issuance of the mandate in this case. See Ponce, 24 So. 3d at 725.

AFFIRMED without prejudice.

SAWAYA, LAWSON and JACOBUS, JJ., concur.