

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

JULY TERM 2009

ROBERT J. AUMILLER,

Appellant,

v.

Case No. 5D09-1211

STATE OF FLORIDA,

Appellee.

/

Opinion filed July 24, 2009

3.800 Appeal from the Circuit Court for
Osceola County,
Jon B. Morgan, Judge.

Robert J. Aumiller, Blountstown,
Pro Se.

Bill McCollum, Attorney General,
Tallahassee, and Anthony J. Golden,
Assistant Attorney General, Daytona
Beach, for Appellee.

ORFINGER, J.

Robert J. Aumiller appeals the trial court's summary denial of his motion for additional jail credit filed under Florida Rule of Criminal Procedure 3.800(a). We reverse the trial court's summary denial of the motion and remand for further consideration.

On July 5, 1994, Aumiller was sentenced to twelve years in prison followed by ten years probation. After being released from prison, Aumiller violated his probation

and was resentenced to seventeen years in prison with “credit for all Department of Corrections time previously served, together with credit for 109 days county jail served pending sentencing [on the violation of probation].” In his motion to correct sentence, Aumiller claims that while he was awarded 327 days of jail credit at the time of his 1994 sentencing, he was not awarded this jail credit when he was resentenced after violating his probation.

In denying Aumiller’s motion, the trial court concluded that its directive that the Department of Corrections (“DOC”) give Aumiller credit for all time previously served would have included any presentence jail credit. If DOC included the time that Aumiller spent in the county jail prior to his 1994 sentencing in its time-served calculation, then the trial court is correct. However, whether DOC included Aumiller’s jail time credit in its calculations cannot be determined from the record before us. Consequently, we reverse the trial court’s summary denial of Aumiller’s rule 3.800 motion seeking additional credit and remand for further review of this matter. On remand, the trial court shall determine if DOC properly included the time that Aumiller spent in the county jail between October 1993 and his original sentencing on July 5, 1994, in calculating his jail time credit.¹

REVERSED AND REMANDED FOR FURTHER PROCEEDINGS.

GRIFFIN and TORPY, JJ., concur.

¹ In doing so, we note that Aumiller claims entitlement to an additional 327 days of jail credit. Aumiller’s calculations appear to be incorrect. Although we do not know the date in October 1993 that Aumiller was arrested, if we assume that it was on October 1, 1993, and that he was sentenced on July 5, 1994, only 277 days would have elapsed, not the 327 days that he alleges.