

FLORIDA THIRD DISTRICT COURT OF APPEAL

Avery Cuff v. State of Florida

No. 3D25-1037; Lower Tribunal No. F20-6673 · No. No. 3D25-1037 · Decided October 1, 2025

SUMMARY

The Third District Court of Appeal denied Avery Cuff’s petition for a belated appeal as moot. The court vacated the trial court’s March 19, 2025 amended order denying jail credit because it was entered before the appellate mandate issued and directed the trial court to enter a new order with record attachments.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Chief Judge Scales; Judge Lindsey; Judge Lobree
JURISDICTION	Florida Third District Court of Appeal
DECIDED	October 1, 2025
DOCKET	No. 3D25-1037
DISPOSITION	vacated
PROCEDURAL POSTURE	Cuff petitioned the Florida Third District Court of Appeal for a belated appeal from an order denying his motion for correction of jail credit under Florida Rule of Criminal Procedure 3.801.
STANDARD OF REVIEW	The opinion does not expressly identify a standard of review; it resolves the issue as one of appellate and trial-court jurisdiction.
PRECEDENTIAL VALUE	published
PARTIES	Avery Cuff, Petitioner v. State of Florida, Respondent

TOPICS

- appellate jurisdiction
- appellate procedure
- post-conviction relief
- criminal procedure

PRACTICE AREAS

- appellate procedure
- criminal procedure
- post-conviction relief

QUESTIONS PRESENTED

1. Whether the trial court had jurisdiction to enter an order complying with the appellate court's directions before issuance of the appellate mandate.
2. Whether Cuff's petition for belated appeal should be granted when the challenged order was entered without trial-court jurisdiction and must be vacated.

HOLDINGS

1. The trial court lacked jurisdiction to enter the amended order before the appellate mandate issued because the mandate is the procedural vehicle by which jurisdiction transfers back to the trial court.
2. The petition for belated appeal must be denied as moot because the challenged amended order was entered without jurisdiction and was vacated; a new order may be timely appealed.

KEY QUOTATIONS

“An appellate court’s mandate is the procedural vehicle by which jurisdiction transfers back to the trial court.” (at 2)

“Accordingly, we deny the petition for belated appeal as moot, but vacate the trial court’s March 19, 2025 amended order denying motion for jail credit entered before entry of our mandate” (at 3)

FACTUAL BACKGROUND

Cuff sought correction of jail credit under Florida Rule of Criminal Procedure 3.801. After the appellate court directed the trial court to attach records supporting denial of the motion, the trial court promptly entered an amended denial order on March 19, 2025. The appellate mandate from the prior appeal did not issue until March 31, 2025.

PROCEDURAL HISTORY

In a prior appeal, the court held that the trial court was required to attach record excerpts conclusively refuting Cuff's jail-credit claims. The court's prior opinion issued on March 5, 2025, and the trial court entered an amended order on March 19, 2025, before the appellate mandate issued on March 31, 2025. The court held that the trial court lacked jurisdiction to enter the amended order before issuance of the mandate, denied the belated-appeal petition as moot, and vacated the amended order with instructions.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The trial court is instructed to enter an order on Cuff's motion for jail credit with record attachments. The court stated that rendition of the new order will permit a timely appeal.

CASES CITED

- Cuff v. State, 405 So. 3d 513, 514 (Fla. 3d DCA 2025)

- Richardson v. State, 257 So. 3d 605, 606 (Fla. 1st DCA 2018)
- Leatherwood v. State, 168 So. 3d 328, 330 (Fla. 3d DCA 2015)
- Scott v. State, 156 So. 3d 9 (Fla. 5th DCA 2014)

OPINION

Avery Cuff v. State of Florida

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed October 1, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D25-1037 Lower Tribunal No. F20-6673 _____ Avery Cuff, Petitioner, vs. State of Florida, Respondent. A Case of Original Jurisdiction – Petition for Belated Appeal. Avery Cuff, in proper person. James Uthmeier, Attorney General, and Yolande M. Samerson, Assistant Attorney General, for respondent. Before SCALES, C.J., and LINDSEY and LOBREE, JJ. PER CURIAM. Avery Cuff (“Cuff”) petitions this court for a belated appeal of an order denying his motion for correction of jail credit under Florida Rule of Criminal Procedure 3.801. We have jurisdiction. See Fla. R. App. P. 9.141(c)(2). In a previous appeal, Cuff successfully argued that the trial court must attach to its order record excerpts conclusively refuting Cuff’s claims that he was entitled to additional jail credit. See Cuff v. State, 405 So. 3d 513, 514 (Fla. 3d DCA 2025). Our opinion issued on March 5, 2025. Very promptly, the trial court complied with our decision and on March 19, 2025, re-entered an order denying Cuff’s rule 3.801 motion, this time properly attaching records to support the denial. However, our mandate in the previous appeal did not issue until March 31, 2025. An appellate court’s mandate is the procedural vehicle by which jurisdiction transfers back to the trial court. Until issuance of our mandate, the trial court lacked jurisdiction to enter an order complying with our directions. Accordingly, while we applaud the trial court’s efficient compliance with our decision, and are loathe to “punish efficiency,” we must reverse the order because it was entered when the trial court did not have jurisdiction. Richardson v. State, 257 So. 3d 605, 606 (Fla. 1st DCA 2018) (citation omitted); accord Leatherwood v. State, 168 So. 3d 328, 330 (Fla. 3d DCA 2015). The State properly concedes that this case is governed by Richardson and Scott v. State, 156 So. 3d 9 (Fla. 5th DCA 2014), and that the trial court, while acting efficiently in response to our March 5, 2025 2 opinion, was without jurisdiction to enter the order from which Cuff now seeks leave to belatedly appeal. Accordingly, we deny the petition for belated appeal as moot, but vacate the trial court’s March 19, 2025 amended order denying motion for jail credit entered before entry of our mandate, see Fla. R. App. P. 9.340(a) (defining “mandate” and setting forth procedures), with instructions to enter an order on Cuff’s motion for jail credit with record attachments.¹ 1 We note that rendition of another order on Cuff’s motion for correction of jail credit will permit a timely appeal therefrom. 3

