

FLORIDA THIRD DISTRICT COURT OF APPEAL

Michel Hernandez Sarmiento v. State of Florida

Sarmiento · No. 3D25-1060 · Decided October 22, 2025

SUMMARY

The Third District Court of Appeal affirmed that Michel Hernandez Sarmiento's Florida Rule of Criminal Procedure 3.801 motion seeking additional jail credit was legally insufficient. The court reversed and remanded with instructions to allow him sixty days to amend the motion.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Miller, J.; Bokor, J.; Gooden, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	October 22, 2025
DOCKET	3D25-1060
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the summary denial of a Florida Rule of Criminal Procedure 3.801 motion seeking additional jail credit.
PRECEDENTIAL VALUE	Published
PARTIES	Michel Hernandez Sarmiento v. State of Florida

TOPICS

- post-conviction relief
- sentence modification
- criminal procedure
- appellate procedure

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- appellate procedure

QUESTIONS PRESENTED

- Whether the trial court properly determined that Sarmiento's Rule 3.801 motion seeking additional jail credit was legally insufficient.
- Whether a legally insufficient post-conviction motion should be denied with leave to amend when it appears to be the defendant's first attempt to file a facially sufficient motion.

HOLDINGS

1. The motion was legally insufficient.
2. When a legally insufficient post-conviction motion appears to be the defendant's first attempt to file a facially sufficient motion, the trial court should deny it without prejudice and allow the defendant sixty days to amend.

KEY QUOTATIONS

“the trial court should have entered ‘a nonfinal, nonappealable order allowing the defendant 60 days to amend the motion.’” (2)

FACTUAL BACKGROUND

Sarmiento filed a Florida Rule of Criminal Procedure 3.801 motion seeking additional jail credit. The trial court summarily denied the motion because it was legally insufficient. The appellate court found the motion insufficient on its face but determined that amendment should have been permitted.

PROCEDURAL HISTORY

The Circuit Court for Miami-Dade County summarily denied Sarmiento's Rule 3.801 motion as legally insufficient. The Third District agreed that the motion was legally insufficient but held that the trial court should have allowed Sarmiento leave to amend within sixty days rather than conclusively denying the motion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must allow Sarmiento sixty days to amend the legally insufficient motion.

CASES CITED

- Spera v. State, 971 So. 2d 754, 761–62 (Fla. 2007)
- Belanger v. State, 146 So. 3d 136, 137–38 (Fla. 3d DCA 2014)

OPINION

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed October 22, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D25-1060 Lower Tribunal Nos. F20-13587, F22-9173, F21-12560 _____ Michel Hernandez Sarmiento, Appellant, vs. State of Florida, Appellee. An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, David Young, Judge.

Michel Hernandez Sarmiento, in proper person. James Uthmeier, Attorney General, and Haccord Curry, Assistant Attorney General, for appellee. Before MILLER, BOKOR, and GOODEN, JJ. MILLER, J. Appellant, Michel Hernandez Sarmiento, challenges the trial court's summary denial of his Florida Rule of Criminal Procedure 3.801 motion seeking additional jail credit.

We affirm the trial court's determination that the motion was legally insufficient. But we are constrained to reverse and remand with instructions to the trial court to allow appellant leave to amend within sixty days. See *Spera v. State*, 971 So. 2d 754, 761–62 (Fla. 2007) (explaining that a legally insufficient motion for postconviction relief should be denied without prejudice to allow leave to amend); *Belanger v. State*, 146 So.

3d 136, 137–38 (Fla. 3d DCA 2014) (“[I]t appears this was the defendant’s first attempt to file a facially sufficient rule 3.801 motion[,].... [hence,] the trial court should have entered ‘a nonfinal, nonappealable order allowing the defendant 60 days to amend the motion.’” (quoting Fla. R. Crim. P. 3.850(f)(2))). Affirmed in part and remanded. 2