

FIFTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

Case No. 5D2025-0894
LT Case No. 2024-CF-001430-A

GARY ALLEN STOKES, JR.,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

3.801 Appeal from the Circuit Court for Marion County.
Barbara Kissner-Kwatkosky, Judge.

Gary Allen Stokes, Jr., Lake Butler, for Appellant.

No Appearance for Appellee.

October 17, 2025

PER CURIAM.

Gary Allen Stokes, Jr., appeals the postconviction court's order denying his postconviction motion, filed pursuant to Florida Rule of Criminal Procedure 3.801, seeking a correction of credit for time served. While the postconviction court correctly determined that Stokes's motion was facially insufficient, the order failed to allow Stokes the opportunity to amend his motion.

Thus, we vacate the order under review and instruct the postconviction court to enter a nonfinal, nonappealable order that affords Stokes sixty days to amend his motion to make it facially sufficient, if he can do so in good faith. Should Stokes timely file a facially sufficient motion, the postconviction court must either attach the records to a new denial order conclusively refuting Stokes's claim of entitlement to additional jail credit, or in the alternative, hold an evidentiary hearing. *See* Fla. R. Crim. P. 3.801(e); Fla. R. Crim. P. 3.850(f); *Bowen v. State*, 373 So. 3d 964, 966 (Fla. 5th DCA 2023) (vacating the circuit court's summary denial of appellant's 3.801 motion and remanding with instruction to provide appellant with sixty days to amend motion where circuit court did not comply with requirements of rule 3.801).

ORDER VACATED; REMANDED with instructions.

MAKAR, KILBANE, and PRATT, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.
