SUPREME COURT OF FLORIDA

ROBERT E. RANSONE Petitioner, vs. STATE OF FLORIDA, Respondent.	Case No. SC09-2084 Lower Tribunal Nos.: 4D09-316, 04-920 CF10A

INITIAL BRIEF

On Discretionary Review from the Fourth District Court of Appeal

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STATEMENT OF THE CASE AND FACTS

Petitioner Robert E. Ransone ("**Mr. Ransone**") seeks review of a decision of the Fourth District Court of Appeal, which affirmed the trial court's denial of his Rule 3.850 Motion for Postconviction Relief but certified direct conflict with the Third District's decision in Tharpe v. State, 744 So. 2d 1256 (Fla. 3d DCA 1999). The decision below, Ransone v. State, 20 So. 3d 445 (Fla. 4th DCA 2009), appears at Tab 1 of the Appendix.

The issue on which there is a conflict is whether, pursuant to Section 921.161(1), Florida Statutes, Mr. Ransone is entitled to credit for jail time he served in Miami-Dade County following his alleged arrest on a warrant issued by Broward County. In the decision below, the Fourth District held that Mr. Ransone is not entitled to credit for time served in Miami-Dade County because the Broward County sentence was not expressly concurrent with the Miami-Dade County sentence, which was completed months prior to sentencing in Broward County. The Third District, however, has held that a defendant was entitled to credit on facts indistinguishable from the instant case.

The facts applicable to this proceeding are alleged in Mr. Ransone's June 30, 2008 Rule 3.850(b) motion, which appears at Tab 3 of the Appendix. On August 3, 2004, Broward County placed Mr. Ransone on one year of community control

followed by three years of probation for grand theft. R-14.[1] On October 20, 2004, Broward County issued a warrant for Mr. Ransone's arrest, alleging a violation of community control (the "**Broward County Warrant**"). R-15; R-35. Mr. Ransone was then arrested on December 28, 2004, in Miami-Dade County on charges unrelated to the Broward County Warrant. R-15. That same day, while in the custody of Miami-Dade County, Mr. Ransone was arrested on the Broward County Warrant. R-15; R-27.[2]

Mr. Ransone remained jailed in Miami-Dade County until his trial for the Miami-Dade County charges. On March 27, 2006, he was found guilty in Miami-Dade and sentenced to "time served." R-15. On April 5, 2006, Miami-Dade County transferred Mr. Ransone to Broward County to face charges for violating community control. R-15.

After a hearing on June 16, 2006, the trial court revoked community control and sentenced Mr. Ransone to five years in prison with credit for 84 days spent in Broward County jail before sentencing. R-15; R-48; R-50. During the hearing,

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[1] Because the Record transmitted by the District Court was not paginated, the record references in this Brief refer to the pagination of the accompanying Appendix.

[2] Throughout the proceedings below, the State has maintained that Mr. Ransone was never arrested on the Broward County Warrant while in the custody of Miami-Dade County. Rather, the State contends that the Miami-Dade authorities merely placed a detainer on Mr. Ransone.

Mr. Ransone testified that he was arrested on the Broward County Warrant while jailed in Miami-Dade County, and requested credit for the time he served from the date of that arrest. R-53. The trial court responded:

> I don't have anything in the Court filed to indicate that.
>
> And you will have to present that to me, this shows he wasn't booked into the Broward county jail until April 6, 2006.
>
> But that doesn't mean a detainer was placed on him. I just don't have that information in the file. (R-53.)

The trial court's decision not to award Mr. Ransone credit for time served in Miami-Dade County was expressly premised on the lack of evidence that Mr. Ransone had been arrested on the Broward County Warrant while jailed in Miami-Dade County.

In January 2007, Mr. Ransone's counsel attempted to obtain a copy of documents reflecting that Mr. Ransone was being held on the Broward County Warrant while jailed in Miami-Dade County. R-66. On April 10, 2007, without the benefit of such documents, Mr. Ransone filed a postconviction motion seeking credit for time served in Miami-Dade County. R-16. The trial court denied that motion, adopting the State's argument that Mr. Ransone was not arrested on the Broward County Warrant until his transfer from Miami-Dade County. R-59; R-62. The Fourth District Court of Appeal affirmed the trial court's decision in Ransone v. State, 981 So. 2d 1218 (Fla. 4th DCA 2008).

On April 29, 2008, Mr. Ransone's sister obtained an arrest affidavit reflecting that he was in fact arrested on the Broward County Warrant on December 28, 2008. R-27; R-68. As a result, Mr. Ransone, *pro se*, filed a motion to supplement the record before the Fourth District Court of Appeal with the newly discovered arrest affidavit. The Fourth District denied Mr. Ransone's motion without prejudice to his seeking post-conviction relief in the trial court. R-25.

Mr. Ransone then filed the instant Motion for Post-Conviction Relief, requesting that the trial court consider the newly discovered arrest affidavit and credit Mr. Ransone with time served in Miami-Dade County after he was arrested on the Broward County Warrant. R-9. The State opposed the motion on the basis that it was barred as successive to Mr. Ransone's first motion for postconviction relief. R-79. Contrary to Mr. Ransone's allegations, the State also argued that the evidence "clearly demonstrate[d]" that the Miami-Dade authorities had only put a detainer on Mr. Ransone. R-79. The trial court adopted the State's Response and denied Mr. Ransone's Motion for Post-Conviction Relief on December 22, 2008. R-114.

Mr. Ransone, *pro se*, timely appealed to the Fourth District. R-124. Citing its decisions in Barrier v. State, 987 So. 2d 772 (Fla. 4th DCA 2008) and Martinez v. State, 940 So. 2d 1277 (Fla. 4th DCA 2006), the Fourth District initially ordered the State to "show cause why the order denying Appellant's postconviction motion

should not be reversed and remanded with directions to grant Appellant presenting jail credit from December 28, 2004 . . . ." R-150.

In its Response to Order to Show Cause, the State incorporated its argument before the trial court that Mr. Ransone's motion was successive, and further argued that Mr. Ransone "has not shown that he was formally arrested on the Broward charges while in Miami-Dade County in December 2004," such that he would not be entitled to credit for time served. R-156.

In the Order on appeal, the District Court ultimately affirmed the trial court "for reasons other than those given by the State and relied on by the trial court in denying the motion." R-1. The District Court held:

> The time Ransone spent in jail from December 2004 until his Miami-Dade cases were resolved in April 2006 was not attributable solely to the charges in this Broward case. His sentence in this Broward case is consecutive to the sentences he received in the Miami-Dade cases, and he did not establish that he is entitled to additional credit.

R-6. The opinion noted that the Third District Court of Appeal "reached a different conclusion" on similar facts in Tharpe v. State, 744 So. 2d 1256 (Fla. 3d DCA 1999), and thus certified conflict with that decision. R-2; R-5.

Mr. Ransone timely filed a notice to invoke the discretionary jurisdiction of this Court (R-172), and this proceeding followed.

SUMMARY OF ARGUMENT

The District Court erred in finding that Mr. Ransone could not establish that he was entitled to credit for time served in Miami-Dade County after his alleged arrest on the Broward County Warrant in December 2004. Pursuant to Section 921.161(1), Florida Statutes, Mr. Ransone was entitled to "credit for all time . . . he spent in the county jail before sentence." In the instant motion, Mr. Ransone sought to introduce newly discovered evidence that could prove that he was arrested on the Broward County Warrant while jailed in Miami-Dade County, which would entitle him to credit on his Broward County sentence for time served since December 28, 2004.

Rather than addressing the State's argument and the findings of the trial court, the District Court improperly concluded that Mr. Ransone could not be entitled to credit for time served in Miami-Dade County because the Broward County sentence was "consecutive" for purposes of Section 921.161(1) as construed by Daniels v. State, 491 So. 2d 543 (Fla. 1986). However, the Broward County sentence was not "consecutive" for purposes of Daniels because it was a single sentence imposed months after Mr. Ransone had completed the Miami-Dade sentence. Under these facts, where the trial court did not impose multiple, consecutive sentences, this Court should adopt the Third District's reasoning in Tharpe, 744 So. 2d 1256, and hold that Mr. Ransone is entitled to "credit for all

time . . . he spent in the county jail before sentence." Fla. Stat. § 921.161(1). Accordingly, the Court should disapprove and reverse the decision of the Fourth District.

ARGUMENT

THE DISTRICT COURT IMPROPERLY DETERMINED THAT MR. RANSONE WAS NOT ENTITLED TO CREDIT FOR TIME SERVED IN MIAMI-DADE COUNTY FOLLOWING HIS ARREST ON THE BROWARD COUNTY WARRANT ON DECEMBER 28, 2004.

The question presented on this appeal, involving the summary denial of a motion for postconviction relief under Rule 3.850, Florida Rules of Criminal Procedure, is an issue of law subject to de novo review. See Willacy v. State, 967 So. 2d 131, 138 (Fla. 2007).

In his Motion for Postconviction Relief, Mr. Ransone sought credit for time served in Miami-Dade County jail after his alleged arrest on the Broward County Warrant. In the proceedings below, the State argued that Mr. Ransone was not entitled to credit for time served in Miami-Dade County because he was not "arrested" on the Broward County Warrant while jailed in Miami-Dade County.[3]

[3] In Gethers v. State, 838 So. 2d 504, 507 (Fla. 2003), this Court resolved a conflict among the District Courts concerning the distinction between an arrest warrant and the issuance of a detainer by another county, holding that a defendant is entitled to credit for time served in another county only when there is an executed arrest warrant; a detainer or legal hold will not entitle the defendant to credit for time served. The instant motion introduced an affidavit evidencing that the Broward County Warrant was in fact executed.

R-59. The trial court adopted the State's argument in denying Mr. Ransone's motion for postconviction relief. R-62. The State reiterated that same argument on Mr. Ransone's appeal to the Fourth District. R-156.

In the decision under review, the Fourth District noted that the "parties in this case have operated under the assumption that Ransone would be entitled to additional credit if he was arrested on the [Broward County Warrant] in December 2004." R-5.[4] The District Court affirmed the trial court for reasons not argued by the State and relied upon by the trial court, finding that Mr. Ransone was not entitled to credit because the Broward County sentence was not consecutive.[5] In reaching its conclusion, the Fourth District ignored the plain language of the applicable statutes and misapplied this Court's decision in Daniels v. State, 491 So. 2d 543 (Fla. 1986).

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[4] The parties were warranted in their "assumption" that Mr. Ransone was entitled to credit for time served in Miami-Dade County if he could establish that he was actually arrested there on the Broward County Warrant, given that the Fourth District had recently decided Trout v. State, 927 So. 2d 1052 (Fla. 4th DCA 2006) when Mr. Ransone was sentenced in Broward County in June 2006.

[5] Although this Court's precedents permit an appellate court to affirm a trial court that "reaches the right result, but for the wrong reasons," the "key to the application of this doctrine of appellate efficiency is that there must have been support for the alternative theory or principle of law in the record before the trial court." Robertson v. State, 829 So. 2d 901, 906-07 (Fla. 2002).

Section 921.161(1), Florida Statutes, governs a defendant's entitlement to credit for time served in county jail before sentencing. It provides as follows:

> A sentence of imprisonment shall not begin to run before the date it is imposed, but the court imposing a sentence shall allow a defendant credit for all of the time she or he spent in the county jail before sentence. The credit must be for a specified period of time and shall be provided for in the sentence.

Prior to the 1973 amendment to Section 921.161(1) (Chapter 73-71, Laws of Florida, 1973), credit for pre-sentencing jail time was permissive and within the sentencing court's sole discretion. See Daniels, 491 So. 2d at 544. In 1973, however, "the legislature amended Section 921.161(1), to provide that the court *must* allow a defendant credit for *all of the time* spent in the county jail before sentencing." Id. at 544-45 (emphasis in original).

In Daniels, this Court resolved a conflict among the District Courts concerning the application of Section 921.161(1) to multiple, concurrent sentences. In that decision, a defendant on probation for trespassing was arrested and held in jail on charges of kidnapping, burglary, and attempted sexual battery. Id. at 544. While jailed for those charges, the defendant was also served with a warrant for violation of probation. Id. The defendant was convicted on all charges and had his probation revoked. The trial court sentenced the defendant to one year imprisonment for the probation violation with credit for time served awaiting trial. Id. The trial court imposed concurrent sentences of 22 years for kidnapping, five

years for burglary, and five years for attempted burglary, but did not credit the defendant with time served awaiting trial. Id. The Fourth District reversed, finding that the trial court erred in failing to credit time served to all of the sentences. Id.

This Court affirmed, noting that "[t]he law is clear that a defendant is entitled to have his sentence reflect credit for any time served in jail prior to sentencing." Id. The Court reasoned "that when, pursuant to section 921.161(1), a defendant receives presentence jail-time credit on a sentence that is to run *concurrently* with other sentences, those sentences must also reflect the credit for time served." Id. at 545 (emphasis in original). The Court was careful to distinguish Daniels from cases "in which the defendant does not receive concurrent sentences on multiple charges; in such a case the defendant 'is not entitled to have his jail time credit pyramided by being given credit on each sentence for the full time he spends in jail awaiting disposition.'" Id. (quoting Martin v. State, 452 So. 2d 938, 938-29 (Fla. 2d DCA 1984)).

In Pearson v. State, 538 So. 2d 1349 (Fla. 1st DCA 1989), the First District applied Daniels to a case involving credit for time served in a foreign Florida county. There, a defendant on probation in Columbia County was arrested for new offenses in Hamilton County. Id. at 1349. While held in Hamilton County, the defendant was served with a warrant issued in Columbia County for violation of

probation. After being sentenced in Hamilton County, the defendant was transferred to Columbia County, where the trial court revoked his probation and sentenced him to two sentences that were to run concurrent with each other and the Hamilton County sentence. Id. The Columbia County court did not credit the defendant for time served in Hamilton County. The First District reversed. Id. at 1350. It reasoned that "where the Columbia County warrant was transmitted to the Hamilton County Sheriff who was holding the defendant in the county jail, the defendant must be deemed to have been in custody under the warrants from both counties, at least for purposes of entitlement to jail credit on concurrent sentencing." Id. "[F]rom the time a warrant is transmitted or issued to another county *and* that county incarcerates the defendant on unrelated charges, that defendant . . . is deemed to be in custody on the warrants from both counties and therefore entitled to jail credit on concurrent sentencing." Travis v. State, 724 So. 2d 119, 120 (Fla. 1st DCA 1998).

Daniels and its progeny thus establish that a defendant is entitled to credit on concurrent sentences for time served in another county jail. Similarly, a defendant who is convicted of "multiple offenses" and sentenced to "consecutive terms of imprisonment must be given presentence jail credit only on the first of the consecutive sentences." Canete v. Florida Dept. Corrections, 967 So. 2d 412, 415-16 (Fla. 1st DCA 2007); Barnishin v. State, 927 So. 2d 68, 71 (Fla. 1st DCA 2006)

("If convicted of multiple offenses, the defendant must be given credit only on the first of consecutive sentences.").

This Court has never addressed facts similar to the instant case, *i.e.* whether a defendant is entitled to credit for time served in another county if the sentence imposed is not expressly concurrent with a prior, completed sentence. The central question to resolving the conflict between the instant case and the Third District's decision in Tharpe is whether to treat the sentences imposed in those cases as "consecutive" for purposes of Daniels. Section 921.161(1), Florida Statutes, makes no distinction between credit for concurrent or consecutive sentences. As discussed above, this Court in Daniels held that a defendant would not be entitled to "pyramiding" credit on multiple consecutive sentences. 491 So. 2d at 545.

The issue of "pyramiding" credit on consecutive sentences was earlier addressed by the First District in Miller v. State, 297 So. 2d 36 (Fla. 1st DCA 1974), aff'd 308 So. 2d 40 (Fla. 1974). In that case, a defendant charged with two counts of larceny and two counts of petit larceny was sentenced to 60 days on each count to run consecutively. Id. at 37. The First District stated that "where a defendant is held to answer for *numerous charges*, he is not entitled to have his jail time pyramided by being given credit on each sentence for the full time he spends in jail awaiting disposition of *multiple charges of cases*." Id. at 38 (emphasis added).

In Tharpe, the Third District held that rule against pyramiding credit is not implicated when the defendant has completed his sentence in the first county prior to sentencing in the second county, and the court in the second county imposes only one sentence. 744 So. 2d at 1256-57. The defendant in Tharpe filed a motion for postconviction relief seeking credit against a sentence imposed in Monroe County for time served in Miami-Dade County after his arrest on the Monroe County warrant. Id. at 1256. The trial court summarily denied the motion. The Third District reversed, holding that if the defendant was arrested on the Monroe County charges while detained in Miami-Dade County jail, he would be "entitled to credit on the Monroe County charges for time served subsequent to the date of the arrest." Id. at 1257.

On appeal, the State argued that the defendant was not entitled to credit under Daniels because the Monroe County sentence was not concurrent with the Miami-Dade sentence. The Third District rejected that argument. Id. It reasoned that "[t]here was, of course, no need for the Monroe County sentencing order to address the Miami-Dade County sentence, because the Miami-Dade County sentence had already expired by the time the defendant was returned to Monroe County." Id. "More to the point," the court found that the State read Daniels "too narrowly." It explained:

> Looking at the substance of the matter, the defendant was at all relevant times subject to the Monroe County community control order.

> The reality is that the defendant served his Miami-Dade County time concurrently with the Monroe County community control. The reason the Daniels decision draws a distinction between concurrent and consecutive sentences is to avoid the pyramiding of credit in cases were sentences are served consecutively. There were no consecutive sentences in this case.

Id. The Monroe County sentence was not "consecutive" because it was a single sentence imposed after the already completed Miami-Dade sentence; as a result, there was no harm of pyramiding of credit.

Since Tharpe, the Third District has consistently held that a defendant is entitled to credit for time served in another county on unrelated charges. See May v. State, 912 So. 2d 326, 326-27 (Fla. 3d DCA 2005) (holding that defendant was "entitled to jail credit for the time he served while he was incarcerated on unrelated charges"); LeBlanc v. State, 839 So. 2d 896 (Fla. 3d DCA 2003) ("Even though he may also have been subject, at least part of the time, to an Orange County charge, which was dropped on May 7, 2002, the law requires he be given credit for all the time served after the execution of the Monroe County warrant."). Consistent with the reasoning of Daniels and Miller, the Third District grants a defendant credit for time served in county jail so long as the sentence in the second proceeding does not involve multiple, consecutive sentences.

Prior to Ransone, the Fourth District also made no distinction between concurrent and consecutive sentences where the defendant was not sentenced on multiple charges in the second proceeding. In Barrier v. State, 987 So. 2d 772

(Fla. 4th DCA 2008), the defendant was arrested while in custody in Miami-Dade County on a warrant issued by Broward County on January 18, 2006. 987 So. 2d at 773. The defendant was transferred to Broward County on September 13, 2006. Id. The District Court held that the defendant was "entitled to the additional credit for the time period between January 18 and September 13, 2006." Id.

Likewise, in Trout, the defendant was arrested in Martin County for DUI and pursuant to an outstanding warrant issued by St. Lucie County. 927 So. 2d at 1053. The defendant remained in Martin County until his sentencing on the Martin County charges in December 2004. Id. at 1054. At the sentencing hearing on the St. Lucie County charges on June 2005, the trial court denied the defendant credit for time served in Martin County, on the mistaken finding that Martin County did not book the defendant on the St. Lucie County charges. Id. Without making any distinction concerning whether the trial court intended the St. Lucie sentence to be consecutive or concurrent, the Fourth District reversed:

> In this case, the officer actually arrested Trout on the violation of probation arrest warrant when Trout was stopped in his vehicle. The officer filed an arrest affidavit attesting to his arrest. Contrary to the statement by the trial judge, the statute requires no paperwork to effect an arrest pursuant to the warrant. Thus, as the arrest warrant was executed, Trout was entitled to credit for all time spent in the Martin County jail while arrested on the violation of probation charge.

Id. at 1055 (internal citations omitted).

In the instant case, the District Court clarified, if not receded from, Barrier and Trout, explaining that those decisions "appear to implicitly follow the holding of Tharpe in presuming that a completed sentence on a separately charged offense was concurrent with a sentence imposed following revocation of a form of community supervision in an unrelated case." R-5. The District Court found that Tharpe conflicts with Section 921.16(1), Florida Statutes ("Sentences of imprisonment for offenses not charged in the same indictment, information, or affidavit shall be served consecutively unless the court directs that two or more of the sentences be served concurrently.") R-3. However, Section 921.16(1) only clarifies when multiple "sentences" are concurrent or consecutive. The Broward County sentence was neither consecutive nor concurrent for purposes of Section 921.16(1) because it was a single sentence, and Mr. Ransone had already completed the Miami-Dade sentence more than two months before sentencing in Broward County. In that instance, there is no consecutive sentence for purposes of Section 921.16(1). See Tharpe, 744 So. 2d at 1257 ("There were no consecutive sentences in this case.")[6]

[6] In concluding that the Broward County sentence was consecutive, the District Court relied on this Court's decision in State v. Mathews, 891 So. 2d. 479, 481 (Fla. 2004) which noted the application of Section 921.16(1) to a defendant's sentences for violation of probation, sexual battery and false imprisonment. R-3. Unlike the sentences in Ransone, the sentences in Matthews were issued on the same day. See 891 So. 2d. at 481. Since "the trial court did not specify how the

In Ransone, the District Court acknowledged the reasoning of Tharpe and likewise recognized that "because Ransone received time served on the Miami-Dade cases and those sentences were completed before he was sentenced in Broward, the Broward trial judge had no reason to decide whether the sentence following revocation of community control was concurrent or consecutive with the Miami-Dade sentences." R-3. "In this situation," reasoned the District Court, "a trial court may have discretion to award credit from the date of execution of its warrant." Id. In reasoning that granting credit for time served in another county should be discretionary under the facts of this case, the District Court relied on this Court's holding in Kronz v. State, 462 So. 2d 450 (Fla. 1985), which involved jail credit for time served in jail in another state awaiting transfer to Florida. See also Tharpe, 744 So. 2d at 1257, n. 1 (noting that credit for time served in a jurisdiction outside Florida is discretionary with the trial court).

Whereas credit for time served in a jurisdiction outside Florida is discretionary, Section 921.161(1) does not grant such discretion. It mandates that a defendant receive "credit for all of the time she or he spent in the county jail before

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overall term imposed [for sexual battery and false imprisonment] related to the sentence for" violating probation, the sentences were deemed to run consecutive. Id. Matthews does not stand for the proposition that a single sentence should be construed as consecutive to a prior completed sentence for purposes of Section 921.161(1) as construed by Daniels.

sentence." Under Daniels, the result may be different if the Broward County trial court had sentenced Mr. Ransone to multiple sentences on June 16, 2006. In that scenario, if the Broward County trial court imposed multiple sentences that were to be served consecutively (either by pronouncement of the court or application of Section 921.16(1) to offenses charged in separate indictments), Mr. Ransone would be entitled to credit for all time spent in county jail since his arrest on the Broward County Warrant but only as to the first of those consecutive sentences. However, the Broward County judge imposed only one sentence at a time when Mr. Ransone was serving no other sentence. Because Section 921.16(1) expressly applies to multiple "sentences," it has no application to Mr. Ransone's sentence in Broward County. More importantly, Mr. Ransone's Broward County sentence was not consecutive for purposes of Daniels. As a result, the District Court erred in finding that Mr. Ransone was not entitled to credit for time served in Miami-Dade County.

The discretionary rule fashioned by the District Court only contravenes that Court's stated desire to adopt a bright-line rule. R-7. The Tharpe decision supports a sounder bright-line rule under the limited facts of the decisions under review. Where a defendant is held in one county pursuant to warrants issued by two counties, the defendant is presumed to be serving time concurrently between the counties for purposes of pre-sentencing credit. The defendant should be entitled to credit for all time served in county jail on each warrant as to the first

sentence imposed in each county. If a county imposes consecutive sentences, then the defendant is entitled to credit for time served only on the first consecutive sentence.

The Fourth District erred in finding that Mr. Ransone was not entitled to credit for the time he served in Miami-Dade County after his alleged arrest on the Broward County Warrant in December 2004. The Broward County trial court had no reason to state whether his sentence was concurrent or consecutive because the court was imposing one sentence and, at the time of sentencing, Mr. Ransone was serving no other sentence. Further, the rule against pyramiding credit espoused by Daniels and its progeny should apply only where the defendant is sentenced to multiple consecutive sentences, not a single sentence that is neither concurrent or consecutive to a prior completed sentence in another county.

Accordingly, the case should be remanded to the trial court to permit Mr. Ransone to establish, as alleged in his 3.850 motion, that the Broward County Warrant was executed while he was under the custody of Miami-Dade County.

CONCLUSION

For the foregoing reasons, the decision below should be reversed, and the case remanded to the trial court to conduct an evidentiary hearing on the merits of Mr. Ransone's Rule 3.850(b) motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 15, 2010, a true and correct copy of the foregoing Answer Brief of Appellee was served via U.S. Mail, postage prepaid, to the following:

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CERTIFICATE OF COMPLIANCE

This brief has been prepared using Times New Roman, 14 Point Font in compliance with the Florida Rules of Appellate Procedure.

/s/ S. Douglas Knox
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