

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

STATE OF FLORIDA,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D13-4648

JOHNNY TOMBERLIN,

Appellee.

Opinion filed April 8, 2015.

An appeal from the Circuit Court for Hamilton County.
Andrew J. Decker, III, Judge.

Pamela Jo Bondi, Attorney General, and Jay Kubica, Assistant Attorney General,
Tallahassee, for Appellant.

Chuck Collins of the Collins Law Firm, for Appellee.

PER CURIAM.

The State appeals an order granting Appellee's motion for discharge based on the State's failure to bring Appellee to trial within 15 days after expiration of the 175-day speedy trial period. *See Fla. R. Crim. P. 3.191(a), (p)*. The State argues,

and Appellee concedes, that the trial court erred when, in calculating the speedy trial period, it included the date of Appellee's arrest. *See State v. Naveira*, 768 So. 2d 1254, 1255 (Fla. 1st DCA 2000) (“[T]he date of arrest is excluded in the 175-day calculation of time, despite that the calculation commences from the date of arrest.”). Accordingly, we reverse the order granting Appellee's motion for discharge.¹

REVERSED.

MARSTILLER, SWANSON and OSTERHAUS, JJ., CONCUR.

¹ We reject Appellee's arguments for affirming the order notwithstanding the trial court's error.