

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

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

MARLON BURRELL,

Appellant,

v.

CASE NO. 1D07-4517

STATE OF FLORIDA,

Appellee.

---

Opinion filed August 27, 2008.

An appeal from the Circuit Court for Leon County.  
Angela C. Dempsey, Judge.

Michael Ufferman, Tallahassee, for Appellant.

Bill McCollum, Attorney General, and Edward C. Hill, Jr., Special Counsel, Criminal Appeals, Tallahassee, for Appellee.

PER CURIAM.

The appellant challenges the trial court's denial of his rule 3.850 motion which argued that he should be permitted to withdraw his plea because he was not advised of possible deportation consequences. The trial court found that although the

appellant's motion was timely filed within two years of State v. Green, 944 So. 2d 208 (Fla. 2006), his motion failed to allege that he could not have ascertained the immigration consequences of the plea with the exercise of due diligence. However, this pleading requirement is not required for those movants filing within two years of the Green opinion. See Ventura v. State, 977 So. 2d 794 (Fla. 2d DCA 2008). Accordingly, the postconviction court's order is reversed and the appellant's motion is remanded for consideration on the merits.

REVERSED and REMANDED.

WEBSTER, LEWIS, and HAWKES, JJ., CONCUR.