

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2007

GEORGE DESSOUCÉ, a/k/a JOCELYN DESROSIERS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D04-2150

[April 11, 2007]

PER CURIAM.

The appellant seeks review of an order that summarily denied his rule 3.850 motion seeking to withdraw a 1986 plea, claiming his public defender improperly advised him of the immigration consequences of that plea. The lower court denied relief prior to the recent supreme court ruling of *State v. Green*, 944 So.2d 208 (Fla. 2006), instead relying upon *Peart v. State*, 756 So.2d 42 (Fla. 2000). The supreme court has receded from the pleading requirements of *Peart*. The movant must now allege at least, “the trial court did not advise him at the time of his plea that he could be deported, that he would not have entered the plea if properly advised, and that the plea in fact renders him subject to deportation.” *Green*, 944 So.2d at 219. In the instant case, the appellant failed to satisfy all of these pleading requirements, thus the summary denial must be affirmed. However, in accordance with *Green*, the affirmance is without prejudice to “his filing a new motion within sixty days after jurisdiction returns to the trial court.” *Id.*

Affirmed without Prejudice.

FARMER, HAZOURI and MAY, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Jack H. Cook, Judge; L.T. Case No. 85-4992 CFA02.

Junior Farquharson, West Palm Beach, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Don M. Rogers,
Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing