

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

OSCAR PAGUADA,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D07-1311

September 12, 2007

PER CURIAM.

Oscar Paguada appeals a final order denying his motion for post-conviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. In his motion, Paguada seeks to withdraw his plea due to the trial court's failure to inform him that his plea could subject him to deportation. The circuit court summarily denied the motion, finding that the motion was untimely. The state concedes that Paguada's rule 3.850 was timely filed pursuant to *State v. Green*, 944 So. 2d 208, 219 (Fla. 2006) (stating "in the interest of fairness, defendants whose cases are already final will have two years from the date of this opinion in which to file a motion comporting with the standards adopted today"). We, therefore, reverse the circuit court's order of denial and remand for consideration of Paguada's motion on the merits.

STONE, WARNER and POLEN, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; William J. Berger, Judge; L.T. Case No. 97-4843 CFA02.

Jan Peter Weiss, Lake Worth, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Melanie Dale Surber, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing