

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2008*

**GWENDOLYN BROWN,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D07-5092

[October 29, 2008]

PER CURIAM.

The trial court's order denying appellant's rule 3.850 motion is reversed and remanded for further proceedings. Appellant's motion was timely filed within the two-year window provided for by *State v. Green*, 944 So. 2d 208 (Fla. 2006), and was not conclusively refuted by the trial court's record attachments. To the extent the trial court concluded the motion failed to allege that the plea in this case was the sole basis for deportation, the court should have afforded appellant at least one opportunity to amend her motion to state a sufficient claim. *See Forrest v. State*, 988 So. 2d 38 (Fla. 4th DCA 2008); *Spera v. State*, 971 So. 2d 754 (Fla. 2007). We remand for the trial court to give the appellant one opportunity to amend her motion to properly allege that the plea in this case alone subjects her to deportation.

*Reversed and Remanded.*

KLEIN, HAZOURI and MAY, JJ., concur.

\* \* \*

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Michael G. Kaplan, Judge; L.T. Case No. 86-1665 CF10B.

Robert G. Amsel of Robbins, Tunkey, Ross, Amsel, Raben & Waxman, P.A., Miami, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Jeanine M. Germanowicz, Assistant Attorney General, West Palm Beach, for appellee.

***Not final until disposition of timely filed motion for rehearing.***