

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

CRECENCIANO HERNANDEZ-GARCIA,)
)
Appellant,)
)
v.) Case No. 2D05-3497
)
STATE OF FLORIDA,)
)
Appellee.)
_____)

Opinion filed August 25, 2006.

Appeal from the Circuit Court for Polk
County; Roger Allan Alcott, Judge.

Ronald S. Tulin, Plant City,
for Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Cerese Crawford Taylor,
Assistant Attorney General, Tampa,
for Appellee.

STRINGER, Judge.

We affirm Hernandez-Garcia's judgment and sentence without discussion of the issues raised on appeal. However, our review of the record revealed that the written judgment reflects a conviction for first-degree burglary even though the trial court orally adjudicated Hernandez-Garcia guilty of second-degree burglary at the sentencing hearing. We are precluded from reviewing this issue because it was not raised on

appeal. Our affirmance is therefore without prejudice to any right Hernandez-Garcia might have to file a motion for appropriate postconviction relief.

Affirmed.

CANADY and LaROSE, JJ., Concur.