

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JUAN MENDEZ,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

CASE NO. 2D00-4110

Opinion filed October 19, 2001.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court
for Hillsborough County;
Jack Espinosa, Jr., Judge.

DAVIS, Judge.

Juan Mendez appeals the summary denial of his motion for postconviction relief. In that motion he alleged that his plea was involuntary because he was not informed of the immigration consequences of the conviction. See Peart v. State, 756 So. 2d 42 (Fla. 2000). We affirm because we conclude that his motion is facially insufficient. Specifically, Mendez's motion fails because he asserted only that he was generally "in danger of deportation" and did not affirmatively allege that he is now actually threatened

with deportation as a result of the convictions he attacks. See Saldana v. State, 786 So. 2d 643 (Fla. 3d DCA 2001). Our affirmance is, however, without prejudice to Mendez's right to file a facially sufficient motion if he is able to do so. See Perez v. Moore, 767 So. 2d 1170 (Fla. 2000). Any such motion filed within sixty days of the issuance of this mandate shall be deemed timely filed and shall not be denied as successive. Alternatively, if Mendez is not able to make a facially sufficient claim at this time, this affirmance is without prejudice to his right to refile if at some time in the future he is actually threatened with deportation as a result of these convictions. See Rodriguez v. State, 789 So. 2d 548 (Fla. 3d DCA 2001).

Affirmed.

ALTENBERND, A.C.J., and SALCINES, J., Concur.