

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

MARIO LIRA RODRIGUEZ,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

CASE NO. 2D01-2108

Opinion filed August 15, 2001.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court
for Highlands County;
J. David Langford, Judge.

BLUE, Chief Judge.

Mario Lira Rodriguez appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. In his motion, Rodriguez made a facially sufficient claim that his plea was involuntary based on Heggs v. State, 759 So. 2d 620 (Fla. 2000). The trial court denied the motion as untimely because it was filed more than two years after Rodriguez's conviction became final on direct appeal. In so doing, the trial court apparently overlooked this court's decision in

Murphy v. State, 773 So. 2d 1174 (Fla. 2d DCA 2000), which held that a defendant shall have two years from the issuance of the supreme court's opinion in Heggs to file a rule 3.850 motion challenging his or her plea on that basis. Rodriguez's motion was thus timely. We therefore reverse and remand for an evidentiary hearing.

Reversed and remanded.

FULMER and GREEN, JJ., Concur.