

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA

THIRD DISTRICT

JULY TERM, A.D. 2001

THE STATE OF FLORIDA,

**

Appellant,

**

vs.

** CASE NO. 3D00-2556

JORGE PANIAGUA,

** LOWER

Appellee.

TRIBUNAL NO. 87-304

**

Opinion filed July 18, 2001.

An Appeal from the Circuit Court for Miami-Dade County,
Manuel Crespo, Judge.

Robert A. Butterworth, Attorney General, and Thomas C.
Mielke, Assistant Attorney General, for appellant.

Wilfredo O. Allen, for appellee.

Before LEVY, FLETCHER and SORONDO, JJ.

PER CURIAM.

The state appeals the trial court's order vacating
defendant's judgment of conviction and sentence.

On January 26, 1987, defendant entered a plea of no contest
to the charges of possession of cocaine and carrying a concealed

weapon. He was sentenced to the time he had served and adjudication of guilt was withheld. On July 7, 2000, he filed a motion for writ of error coram nobis, also invoking rules 3.850 and 3.172(c)(8) of the Florida Rules of Criminal Procedure. The trial court granted this motion on July 18, 2000, and the state filed this timely appeal.

The facts in the present case are almost identical to those in Medina v. State, 711 So. 2d 256 (Fla. 3d DCA 1998). As in Medina, defendant entered his plea two years before rule 3.172(c)(8), which requires the trial court to inform defendants of the possible immigration consequences of their plea, became effective. Post conviction relief is unavailable "on a claimed failure to advise of immigration consequences, because there was no duty to render such advice at that time." Id. at 257. See also State v. Ginebra, 511 So. 2d 960 (Fla. 1987); State v. Richardson, 785 So. 2d 585 (Fla. 3d DCA 2001).

We reverse the lower court's order and remand with directions to reinstate the judgment and sentence below.

Reversed and remanded.