

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, A.D. 2003

MARIO VENERO,	**	
Appellant,	**	
vs.	**	CASE NO. 3D02-3387
THE STATE OF FLORIDA,	**	LOWER
Appellee.	**	TRIBUNAL NO. 97-34954

Opinion filed March 31, 2004.

An Appeal under Florida Rule of Appellate Procedure 9.141(b) (2) from the Circuit Court for Miami-Dade County, Peter R. Lopez, Judge.

Ileana Haedo, for appellee.

Charles J. Crist, Jr., Attorney General, and Thomas C. Mielke, Assistant Attorney General, for appellee.

Before COPE, SHEVIN and WELLS, JJ.

PER CURIAM.

We reverse, in part, the order denying defendant's post-conviction relief motion. The record does not conclusively refute defendant's claim that counsel was ineffective for failing to move

to sever the possession of a firearm by a violent career criminal charge. Therefore, we reverse the portion of the order denying relief on that basis and remand for an evidentiary hearing.

Affirmed in part; reversed in part and remanded.