

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. 2002

CARL COLLIN WEEKES,

**

Appellant,

**

vs.

**

CASE NO. 3D01-1075

THE STATE OF FLORIDA,

**

Appellee.

**

LOWER
TRIBUNAL NO. 95-17381

Opinion filed May 8, 2002.

An appeal from the Circuit Court for Dade County, Maria
Espinosa Dennis, Judge.

Carl Collin Weekes, for appellant.

Robert A. Butterworth, Attorney General, and Consuelo Maingot,
Assistant Attorney General, for appellee.

Before COPE and GODERICH, JJ, and NESBITT, Senior Judge.

PER CURIAM.

Carl Collin Weekes appeals an order denying postconviction
relief. We affirm.

Defendant-appellant Weekes entered into a plea bargain
relating to multiple offenses. He alleges that in the plea hearing

on November 2, 1995, "the State's Attorney gave assurances that due to petitioner's prior service in the armed services the petitioner would not be subject to deportation" Defendant states that in 1999 the Immigration and Naturalization Service (INS) initiated deportation proceedings seeking to deport him to Barbados.

Defendant filed a petition for writ of audita querela seeking relief from his plea. The trial court properly treated this as a motion for postconviction relief under Florida Rule of Criminal Procedure 3.850. See Peart v. State, 756 So. 2d 42, 45 (Fla. 2000).

A review of the plea colloquy discloses no statement by the prosecutor indicating that the defendant would not be deported as a result of his plea. Indeed, the plea colloquy indicates the opposite:

THE COURT: Do you understand, Mr. Weekes, if you're not a United States citizen, this plea could result in your being deported to the country of your birth?

THE DEFENDANT: Yes.

Since the defendant was advised of the possible deportation consequences of the plea, the trial court properly denied defendant's motion.

Affirmed.