



**DEFENSE COUNSEL WAS INEFFECTIVE FOR FAILING TO INFORM DEFENDANT THE AGGRAVATED FELONY TO WHICH DEFENDANT PLED GUILTY SUBJECTED HIM TO MANDATORY DEPORTATION, APPEAL HELD IN ABEYANCE TO ALLOW DEFENDANT TO MOVE TO VACATE HIS PLEA (FIRST DEPT).**

The First Department determined defendant received ineffective of assistance of counsel. Counsel did not inform defendant he would be subject to mandatory deportation based upon his plea to an aggravated felony:

Defendant should be afforded the opportunity to move to vacate his plea upon a showing that there is a reasonable probability that he would not have pleaded guilty had he been made aware of the deportation consequences of his plea ... and we hold the appeal in abeyance for that purpose. While defendant requests that his conviction be replaced by a conviction under a different subdivision of Penal Law § 220.16 that may entail less onerous immigration consequences, we find that to be an inappropriate remedy, and we instead order a hearing. [People v Disla, 2019 NY Slip Op 04995, First Dept 6-20-19](#)