

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

EFREN ZAMORA,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

CASE NO. 1D12-1285

STATE OF FLORIDA,

Appellee.

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Opinion filed August 8, 2012.

An appeal from the Circuit Court for Okaloosa County.  
John T. Brown, Judge.

Michael M. Brownlee, Winter Park, for Appellant.

Pamela Jo Bondi, Attorney General, and Brooke Poland, Assistant Attorney  
General, Tallahassee, for Appellee.

MAKAR, J.

This case involves the question of whether the United States Supreme Court's decision in Padilla v. Kentucky, 130 S. Ct. 1473 (2010) should be retroactively applied. Although courts around the country are split on the matter,

each of the other four district courts of appeal in Florida has concluded that Padilla is not retroactive in application. See Smith v. State, 85 So. 3d 551 (Fla. 4th DCA 2012); Barrios-Cruz v. State, 63 So. 3d 868 (Fla. 2d DCA 2011); Hernandez v. State, 61 So. 3d 1144 (Fla. 3d DCA 2011) (certifying question), rev. granted, 81 So. 3d 414 (Fla. 2012); Santiago v. State, 65 So. 3d 575 (Fla. 5th DCA 2011).

We join the other district courts of appeal in Florida, which have concluded that Padilla is not to be retroactively applied. See e.g., Angel-Bello v. State, No. 1D12-513, 2012 WL 2814161 (Fla. 1st DCA July 11, 2012); Barreneche v. State, 80 So. 3d 455 (Fla. 1st DCA 2012). In joining, we note that our supreme court has accepted jurisdiction in Hernandez to resolve in Florida the rule to be applied. See Hernandez, 61 So. 3d 1144, rev. granted, 81 So. 3d 414 (Fla. 2012). Further, the United States Supreme Court granted certiorari to review the same question, and will hear oral arguments October 30, 2012. See Chaidez v. United States, 655 F.3d 684 (7th Cir. 2011), cert. granted, 132 S. Ct. 2101 (April 30, 2012) (No. 11-820).

AFFIRMED.

VAN NORTWICK, and WETHERELL, JJ., CONCUR.