

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

EARLE A. PICKETT,	)	
	)	
Appellant,	)	
	)	
v.	)	Case No. 2D11-1300
	)	
STATE OF FLORIDA,	)	
	)	
Appellee.	)	
_____	)	

Opinion filed December 9, 2011.

Appeal pursuant to Fla. R. App. P.  
9.141(b)(2) from the Circuit Court for  
Lee County; John W. Dommerich,  
Judge.

PER CURIAM.

Earle A. Pickett appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850, which the postconviction court denied as untimely. We affirm. See Barrios-Cruz v. State, 63 So. 3d 868 (Fla. 2d DCA 2011). As in Barrios-Cruz, 63 So. 3d at 870, we hold that Padilla v. Kentucky, 130 S. Ct. 1473 (2010), does not apply retroactively in postconviction proceedings and we certify to the Florida Supreme Court the following

question of great public importance pursuant to Florida Rule of Appellate Procedure

9.030(a)(2)(A)(v):

SHOULD THE RULING IN PADILLA V. KENTUCKY, 130 S.  
Ct. 1473 (2010), BE APPLIED RETROACTIVELY IN  
POSTCONVICTION PROCEEDINGS?

Affirmed.

DAVIS, KELLY, and LaROSE, JJ., Concur.