

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ROBERTO ANDRES SILVAPUENTES,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D11-1625

Opinion filed December 9, 2011.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Hillsborough County; Susan Sexton,
Judge.

Peter N. Macalusco, Tampa, for Appellant.

PER CURIAM.

Roberto Andres Silvapuentes 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