

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ROBERT DONLAN,)	
)	
Appellant,)	
)	
v.)	Case No. 2D11-1819
)	
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
Manatee County; Gilbert A. Smith, Jr.,
Judge.

Arturo R. Rios, St. Petersburg,
for Appellant.

PER CURIAM.

Robert Donlan 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.