

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

EVINS JEAN,	)	
	)	
Appellant,	)	
	)	
v.	)	Case No. 2D11-2813
	)	
STATE OF FLORIDA,	)	
	)	
Appellee.	)	
_____	)	

Opinion filed January 13, 2012.

Appeal pursuant to Fla. R. App. P.  
9.141(b)(2) from the Circuit Court for  
Pinellas County; R. Timothy Peters, Judge.

Jerrard B. Cutrone, Miami, for Appellant.

LaROSE, Judge.

Evins Jean appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. The postconviction court denied the motion 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.

WHATLEY and DAVIS, JJ., Concur.