

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

LUIS FELIPE AGUAS,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
_____)

Case No. 2D12-1307

Opinion filed November 9, 2012.

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

J. Jervis Wise of Bjorn E. Brunvand, P.A.,
Clearwater, for Appellant.

BLACK, Judge.

Luis Aguas appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. The postconviction court ruled that the motion was untimely, and we agree. See Barrios-Cruz v. State, 63 So. 3d 868 (Fla. 2d DCA 2011). As we did in Barrios-Cruz, we hold that Padilla v.

Kentucky, 130 S. Ct. 1473 (2010), does not apply retroactively in postconviction proceedings, and we certify the following question of great public importance:

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

Affirmed; question certified.

CRENSHAW and WALLACE, JJ., Concur.