



1 drug charges “made his deportation virtually mandatory.” Slip op. at 1. The United States  
2 Supreme Court held that counsel’s performance was constitutionally deficient; it did not reach  
3 the issue of whether this deficient performance prejudiced Padilla. *Id.* at 2.

4 Padilla pleaded guilty in reliance on counsel’s erroneous advice. In contrast, in the  
5 instant case Petitioner initially did *not* plead guilty in reliance on counsel’s erroneous advice but  
6 subsequently *did* plead guilty on counsel’s accurate advice. Here, unlike the situation in *Padilla*,  
7 counsel’s deficient performance could not have had an effect on the actual plea bargain to which  
8 Petitioner acceded.

9 In fact, *Padilla* supports the conclusion that Petitioner’s claim lacks merit. As the  
10 Supreme Court explained:

11 The nature of relief secured by a successful collateral challenge to  
12 a guilty plea—an opportunity to withdraw the plea and proceed to  
13 trial—imposes its own significant limiting principle: Those who  
collaterally attack their guilty pleas lose the benefit of the bargain  
obtained as a result of the plea.

14 *Id.* at 15. If Petitioner were granted relief in the present action, the Court could not order the  
15 State of California to offer Petitioner the initial plea bargain that he rejected; rather, Petitioner  
16 simply would be restored to the same position he was in immediately prior to his plea, i.e., a  
17 possible—indeed, reasonably probable—sentence of more than one hundred years to life if he  
18 elected to go to trial. Under these circumstances, the Court is not convinced that a decision to  
19 reject the actual plea bargain that Petitioner accepted would have been rational. *See id.* at 14 (“to  
20 obtain relief on this type of claim, a petitioner must convince the court that a decision to reject  
21 the plea bargain would have been rational under the circumstances”). Accordingly, Petitioner’s  
22 reliance on *Padilla* is misplaced.

23 In *Moore*, the Ninth Circuit held that counsel’s failure to file what would have been a  
24 meritorious motion to suppress Moore’s taped confession on involuntariness grounds was  
25 constitutionally deficient. The court also held that counsel’s deficient performance prejudiced  
26 Moore because had he gone to trial Moore “would have faced a potential sentence identical to  
27 that he received as a result of his plea bargain.” 574 F.3d at 1094.

28 In reaching its conclusion, the Court of Appeals explained that, “[i]n the context of a plea

