

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

NORBERTO CRUZ,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
_____)

Case No. 2D11-1409

Opinion filed December 9, 2011.

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

Carl J. Dicampli of
Lorenzo and Lorenzo, P.A., Tampa,
for Appellant.

PER CURIAM.

Norberto Cruz 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.