

IN THE SECOND DISTRICT COURT OF APPEAL, LAKELAND, FLORIDA

May 16, 2012

JESUS EDUARDO RAMOS,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D11-2209

BY ORDER OF THE COURT:

Upon consideration of Appellant's motion for rehearing, rehearing is granted and this court's opinion dated January 13, 2012, is withdrawn. The attached opinion is substituted therefor.

I HEREBY CERTIFY THE FOREGOING IS A
TRUE COPY OF THE ORIGINAL COURT ORDER.

JAMES R. BIRK HOLD, CLERK

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JESUS EDUARDO RAMOS,)	
)	
Appellant,)	
)	
v.)	Case No. 2D11-2209
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed May 16, 2012.

Appeal from the Circuit Court for Collier
County; Frederick R. Hardt, Judge.

Stephen M. Groggoza, Naples, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Donna S. Koch, Assistant
Attorney General, Tampa, for Appellee.

PER CURIAM.

Affirmed. See Barrios-Cruz v. State, 63 So. 2d 868 (Fla. 2d DCA 2011).

As in Barrios-Cruz, 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; question certified.

SILBERMAN, C.J., and NORTHCUTT and MORRIS, JJ., Concur.