

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

MICHEL ESCARMENT, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF FLORIDA, )  
 )  
 Appellee. )  
 )  
 \_\_\_\_\_ )

Case No. 2D11-3241

Opinion filed April 11, 2012.

Appeal pursuant to Fla. R. App. P.  
9.141(b)(2) from the Circuit Court for  
Collier County; Frederick R. Hardt,  
Judge.

KHOUZAM, Judge.

Michel Escarment appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. The postconviction court denied Escarment's 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.

DAVIS and KELLY, JJ., Concur.