

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

|                   |   |                    |
|-------------------|---|--------------------|
| MANUEL HERRERA,   | ) |                    |
|                   | ) |                    |
| Appellant,        | ) |                    |
|                   | ) |                    |
| v.                | ) | Case No. 2D11-4382 |
|                   | ) |                    |
| STATE OF FLORIDA, | ) |                    |
|                   | ) |                    |
| Appellee.         | ) |                    |
| _____             | ) |                    |

Opinion filed June 1, 2012.

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

PER CURIAM.

Affirmed. See Barrios-Cruz v. State, 63 So. 3d 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.

ALTENBERND, KHOUZAM, and MORRIS, JJ., Concur.