

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ELIJAH CAMPBELL,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D11-6092

Opinion filed November 28, 2012.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Charlotte County; Nicholas Thompson,
Judge.

PER CURIAM.

Elijah Campbell appeals the order summarily denying as untimely his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. 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 for review 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, VILLANTI, and CRENSHAW, JJ., Concur.