

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

GREGORY MORAILLE,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D12-393

Opinion filed October 5, 2012.

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

Gregory Mangone of Mangone & Miller
Law Offices, Naples, for Appellant.

KHOUZAM, Judge.

Gregory Moraille appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. The postconviction court ruled that the motion was untimely, and we agree. See Barrios-Cruz v. State, 63 So. 3d 868 (Fla. 2d DCA 2011). As we did in Barrios-Cruz, we hold that Padilla v. Kentucky, --- U.S. ---, 130 S. Ct. 1473, 176 L. Ed. 2d 284 (2010), does not

apply retroactively in postconviction proceedings, and we certify the following question of great public importance:

SHOULD THE RULING IN PADILLA v. KENTUCKY, --- U.S. ---, 130 S. CT. 1473, 176 L. ED. 2d 284 (2010), BE APPLIED RETROACTIVELY IN POSTCONVICTION PROCEEDINGS?

Affirmed.

CRENSHAW and MORRIS, JJ., Concur.