

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

v.

ROMAN DOGIEL

Appellant

No. 3035 EDA 2011

Appeal from the Order Dated October 11, 2011  
In the Court of Common Pleas of Bucks County  
Criminal Division at No(s): CP-09-CR-0003850-2004

BEFORE: GANTMAN, J., PANELLA, J., and OTT, J.

JUDGMENT ORDER BY PANELLA, J.

Filed: March 1, 2013

Appellant, Roman Dogiel, appeals from the order entered October 11, 2011, by the Honorable Rea Behney Boylan, Court of Common Pleas of Bucks County, which denied without a hearing his petition filed pursuant to the Post Conviction Relief Act (PCRA).<sup>1</sup> We affirm.

On appeal, Dogiel argues that trial counsel was ineffective for failing to inform him of the deportation consequences of his guilty plea to retail theft and receiving stolen property. He now seeks to withdraw his guilty plea based upon the United States Supreme Court's decision in *Padilla v. Kentucky*, 559 U.S. 356, 130 S.Ct. 1473, 176 L.Ed.2d 284 (2010),

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<sup>1</sup> 42 PA.CON.S.TAT.ANN. § 9541, *et seq.*

requiring defense counsel to advise defendant about the risk of deportation arising from a guilty plea.

Dogiel additionally argues that the PCRA court erred in finding his claim barred by the PCRA, rather than exercising its equitable powers to review his claim. We need not decide this issue at this time. As noted, Dogiel relies upon the United States Supreme Court's decision in *Padilla* for relief. Recently, in *Chaidez v. U.S.*, --- S.Ct. ----, 2013 WL 610201 (U.S. 2013, filed Feb. 20, 2013), the Supreme Court held that the holding of *Padilla* that the Sixth Amendment requires defense counsel to advise defendant about the risk of deportation arising from a guilty plea did not apply retroactively to a defendant whose conviction became final before *Padilla* was decided. *Id.* at \*4. Instantly, Dogiel entered his guilty plea on September 14, 2004. That same day, Dogiel was sentenced to 30 days to 23 months' imprisonment and granted immediate parole. Dogiel's judgment of sentence became final on October 14, 2004, when thirty days passed from the entry of the trial court's sentencing order, and Dogiel failed to file a post-sentence motion or notice of appeal in this Court. Therefore, the decision in *Padilla*, decided March 31, 2010, does not apply to Dogiel's case. Accordingly, no relief is due.

Order affirmed.