



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. PD-0220-13

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EX PARTE RAHUL SUDHAKAR, Appellee

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ON STATE'S PETITION FOR DISCRETIONARY REVIEW  
FROM THE FOURTEENTH COURT OF APPEALS  
FORT BEND COUNTY

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*Per curiam.*

### OPINION

Pursuant to a plea agreement, the Appellee pled guilty in 2009 to possession of a controlled substance. In 2011, he filed an application for a writ of habeas corpus claiming that his counsel provided ineffective assistance by failing to advise him of the deportation consequences of his guilty plea. The trial court granted relief and the Court of Appeals affirmed. *Ex parte Sudhakar*, No. 14-11-00701-CR (Tex. App. - Houston [14th Dist.] 2012). The State has filed a petition for discretionary review contending the Court of Appeals erred

in holding that *Padilla v. Kentucky*, 559 U.S. 356 (2010), applies retroactively to the collateral review of a state conviction that was final when the *Padilla* opinion was issued. The State pointed out that the U.S. Supreme Court recently held that, under *Teague v. Lane*, 489 U.S. 288 (1989), *Padilla* does not have retroactive effect. *Chaidez v. United States*, 133 S.Ct. 1103 (2013). We adopted that Court's reasoning as a matter of state law in *Ex parte De Los Reyes*, No. PD-1457-11, \_\_ S.W.3d \_\_ (Tex. Crim. App. March 20, 2013).

The Court of Appeals in the instant case did not have the benefit of our opinion in *Ex parte De Los Reyes*. Therefore, we grant the State's petition for discretionary review, vacate the judgment of the Court of Appeals, and remand this case to the Court of Appeals in light of *Ex parte De Los Reyes*.

Delivered April 17, 2013  
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