



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. PD-1051-11

EX PARTE YEKATERINA TANKLEVSKAYA, Appellant

**ON STATE'S PETITION FOR DISCRETIONARY REVIEW
FROM THE FIRST COURT OF APPEALS
HARRIS COUNTY**

Per curiam. Alcala, J., not participating.

OPINION

Appellant was convicted of possession of less than two ounces of marijuana. She was sentenced to four days in jail. Later, the Immigration and Naturalization Services initiated removal proceedings against her.

Appellant filed a writ application pursuant to Art. 11.072 alleging that she received ineffective assistance of counsel under *Padilla v. Kentucky*, 559 U.S. 356 (2010). The trial

court denied relief. On appeal, the Court of Appeals reversed, holding that counsel was ineffective under *Padilla*. *Ex parte Tanklevskaya*, 361 S.W.3d 86 (Tex. App. – Houston [1st Dist.] 2011).

The State has filed a petition for discretionary review of this decision. 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*, ___ U.S. ___, 133 S. Ct. 1103 (2013). Today, 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 *De Los Reyes*. Accordingly, 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 *De Los Reyes*.

DATE DELIVERED: March 20, 2013

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