



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. PD-1215-12

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**EX PARTE ALFREDO OLVERA, Appellant**

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**ON STATE'S PETITION FOR DISCRETIONARY REVIEW  
FROM THE FIFTH COURT OF APPEALS  
COLLIN COUNTY**

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*Per curiam.*

## OPINION

Appellant pleaded guilty to assault of a public servant. The trial court deferred an adjudication of guilt and placed Appellant on supervision for five years. He was later denied reentry into the United States.

Appellant filed a writ application pursuant to Art. 11.072 alleging that he 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 Olvera*, No. 05-11-01349-CR, 2012 Tex. App. LEXIS 4896 (Tex. App. – Dallas June 20, 2012) (not designated for publication).

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

DO NOT PUBLISH