

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

JANUARY TERM 2011

STATE OF FLORIDA,

Appellant,

v.

Case No. 5D10-2515

MOHAMMED SHARIQUE SHAIKH,

Appellee.

\_\_\_\_\_ /

Opinion filed June 3, 2011

3.850 Appeal from the Circuit Court  
for Orange County,  
Roger J. McDonald, Judge.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Pamela J. Koller,  
Assistant Attorney General, Daytona  
Beach, for Appellant.

James S. Purdy, Public Defender, and  
Ailene S. Rogers, Assistant Public  
Defender, Daytona Beach, for Appellee.

PER CURIAM.

The State seeks reversal of an order granting the motion of the appellee, Mohammed Sharique Shaikh, for post-conviction relief pursuant to rule 3.850, Florida Rules of Criminal Procedure. Mr. Shaikh's motion, his third, was based on the opinion of the United States Supreme Court in *Padilla v. Kentucky*, \_\_\_ U.S. \_\_\_, 130 S.Ct. 1473 (2010), concerning the consequences of inadequate legal advice in connection

with the risk of deportation at the time of the entry of a plea. The trial court found that his *nolo contendere* plea to violation of a domestic violence injunction was involuntary because of the purportedly erroneous advice given to him by his attorney. We reverse.

Mr. Shaikh's plea was entered on October 29, 2007, well before *Padilla* was handed down. We agree with that part of the decision of our sister court in the third district in *Hernandez v. State*, 36 Fla. L. Weekly D713 (Fla. 3d DCA Apr. 6, 2011), holding that *Padilla* should not be applied retroactively. As Mr. Shaikh is not entitled to relief on his claim, we reverse the order granting post-conviction relief and remand to the trial court to reinstate the judgment and sentence in case number 48-2007-CF-5935.

REVERSED and REMANDED with instructions.

MONACO, C.J., and LAWSON and JACOBUS, JJ., concur.