

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

United States v. Urias-Marrufo

744 F.3d 361 (5th Cir. 2014) · No. 13-50085 · Decided February 28, 2014

SUMMARY

The Fifth Circuit held that a district court must address a sufficiently presented claim under *Padilla v. Kentucky* when raised in a motion to withdraw a guilty plea before sentencing. The court vacated the denial of Ana Victoria Urias-Marrufo’s motion and remanded for factual findings on whether counsel failed to advise her of certain deportation consequences and whether that failure affected her plea.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	W. Eugene Davis; Emilio M. Garza; Dennis
JURISDICTION	Federal
DECIDED	February 28, 2014
DOCKET	13-50085
DISPOSITION	vacated
PROCEDURAL POSTURE	Direct criminal appeal from the denial of a presentence motion to withdraw a guilty plea.
STANDARD OF REVIEW	Abuse of discretion; factual findings are reviewed for clear error.
PRECEDENTIAL VALUE	Published precedential opinion of the United States Court of Appeals for the Fifth Circuit; includes a specially concurring opinion.
PARTIES	Ana Victoria Urias-Marrufo v. United States of America

TOPICS

- plea bargaining
- right to counsel
- ineffective assistance
- deportation
- appellate procedure

PRACTICE AREAS

- criminal procedure
- immigration
- criminal defense
- appellate procedure

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by denying Urias's presentence Rule 11 motion to withdraw her guilty plea.
2. Whether a sufficiently presented claim that counsel violated *Padilla v. Kentucky* by failing to advise a noncitizen of certain deportation consequences must be addressed in a Rule 11 motion to withdraw a guilty plea on direct appeal.
3. Whether the plea colloquy's acknowledgment of possible immigration consequences eliminated the need to address counsel's alleged failure to provide constitutionally required advice.

HOLDINGS

1. When a *Padilla* ineffective-assistance claim is sufficiently presented both legally and factually during a motion to withdraw a guilty plea, the district court errs by declining to address the claim on the ground that it belongs only in a collateral proceeding.
2. A plea colloquy informing a defendant that immigration consequences are possible does not cure counsel's alleged failure to advise the defendant of certain deportation consequences required by *Padilla*.
3. The record did not permit the appellate court to decide whether a *Padilla* violation occurred; therefore, the proper remedy was to vacate and remand for the district court to address the merits of the claim, without mandating a particular result.

KEY QUOTATIONS

"We hold that when a Padilla claim is sufficiently presented during a motion to withdraw a plea, both legally and factually, a district court errs in failing to address the claim." (368-69)

"It is counsel's duty, not the court's, to warn of certain immigration consequences, and counsel's failure cannot be saved by a plea colloquy." (369)

"Moreover, if the court finds that a Padilla violation occurred, that finding compels the court to permit the defendant to withdraw the guilty plea." (369)

FACTUAL BACKGROUND

Urias, a lawful permanent resident who was not a United States citizen, was indicted for possessing with intent to distribute at least 100 kilograms of marijuana. She pleaded guilty after acknowledging during the plea colloquy that she might be deported, but later asserted that neither of her attorneys had told her deportation was certain. Before sentencing, she moved to withdraw her plea under Rule 11, stating that she would not have pleaded guilty had she known certain deportation would result.

PROCEDURAL HISTORY

Urias pleaded guilty pursuant to a written plea agreement to possession with intent to distribute 100 kilograms or more of marijuana. Before sentencing, she moved under Federal Rule of Criminal Procedure 11 to withdraw her plea, asserting that counsel failed to advise her that deportation was a certain consequence of the plea. The district court denied the motion, concluding that the *Padilla* ineffective-assistance claim could be raised only in a

collateral proceeding under 28 U.S.C. § 2255, and then sentenced Urias to 37 months' imprisonment. The Fifth Circuit vacated and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The district court must address the merits of Urias's sufficiently presented Padilla claim, consider additional evidence if needed, and may—but need not—hold an additional evidentiary hearing. The court must make the relevant factual findings and is not required to reach any particular result.

CASES CITED

- United States v. Grant, 117 F.3d 788, 789 (5th Cir. 1997)
- United States v. Henderson, 72 F.3d 463, 465 (5th Cir. 1995)
- United States v. Mann, 161 F.3d 840, 860 (5th Cir. 1998)
- United States v. Lampazianie, 251 F.3d 519, 523-24 (5th Cir. 2001)
- United States v. Carr, 740 F.2d 339, 342-45 (5th Cir. 1984)
- United States v. Morrow, 537 F.2d 120, 146 (5th Cir. 1976)
- United States v. McKnight, 570 F.3d 641, 646 (5th Cir. 2009)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Padilla v. Kentucky, 559 U.S. 356 (2010)
- Chaidez v. United States, 133 S. Ct. 1103, 1106, 1108-10 (2013)
- Boykin v. Alabama, 395 U.S. 238, 244 (1969)
- Matthew v. Johnson, 201 F.3d 353, 365 (5th Cir. 2000)
- Brady v. United States, 397 U.S. 742, 750 (1970)
- Roe v. Flores-Ortega, 528 U.S. 470, 480, 486 (2000)
- United States v. London, 568 F.3d 553, 562 (5th Cir. 2009)
- United States v. Villegas-Rodriguez, 171 F.3d 224, 230 (5th Cir. 1999)
- United States v. McDonald, 416 F. App'x 433, 436 (5th Cir. 2011)
- Marroquin v. United States, 480 F. App'x 294, 299 (5th Cir. 2012) (Dennis, J., concurring)
- United States v. Amer, 681 F.3d 211, 212 (5th Cir. 2012)
- United States v. Bonilla, 637 F.3d 980, 984 (9th Cir. 2011)
- United States v. Pellerito, 878 F.2d 1535, 1537-38 (1st Cir. 1989)
- United States v. Arteca, 411 F.3d 315, 319-20 (2d Cir. 2005)
- United States v. Jones, 336 F.3d 245, 254 (3d Cir. 2003)
- United States v. Headley, 923 F.2d 1079, 1083 (3d Cir. 1991)
- United States v. Wynn, 663 F.3d 847 (6th Cir. 2011)

- United States v. Lundy, 484 F.3d 480, 484 (7th Cir. 2007)
- Hill v. Lockhart, 474 U.S. 52, 57 (1985)
- United States v. Wallace, 276 F.3d 360, 366 (7th Cir. 2002)
- United States v. Cruz, 643 F.3d 639, 642 (8th Cir. 2011)
- United States v. Hamilton, 510 F.3d 1209, 1213 (10th Cir. 2007)

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