

## COURT OF APPEALS OF MARYLAND

### State v. Sanmartin Prado

448 Md. 664 (2016) · No. No. 100, September Term, 2015 · Decided July 11, 2016

#### SUMMARY

The Maryland Court of Appeals held that defense counsel did not provide constitutionally deficient advice under *Padilla v. Kentucky* where counsel advised the defendant that his conviction was a deportable or possibly deportable offense and that there could and probably would be immigration consequences. The court concluded that this advice correctly conveyed the risk of deportation before the defendant proceeded by a plea of not guilty on an agreed statement of facts. The case arose from a petition for writ of error coram nobis challenging a conviction for second-degree child abuse.

#### CASE DETAILS

|                       |                                                                                                                                                                                                                                                       |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals of Maryland                                                                                                                                                                                                                          |
| WRITING FOR THE COURT | Watts, J.; Barbera, C.J.; Greene, J.; Adkins, J.; McDonald, J.; Rodowsky, J.; Lawrence, J. (Retired, Specially Assigned); Battaglia, J. (Retired, Specially Assigned)                                                                                 |
| JURISDICTION          | Maryland                                                                                                                                                                                                                                              |
| DECIDED               | July 11, 2016                                                                                                                                                                                                                                         |
| DOCKET                | No. 100, September Term, 2015                                                                                                                                                                                                                         |
| DISPOSITION           | reversed                                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | The State sought review of the Court of Special Appeals' reported decision reversing the denial of Sanmartin Prado's petition for a writ of error coram nobis and remanding for a prejudice determination under Strickland.                           |
| STANDARD OF REVIEW    | Legal questions are reviewed without deference. Factual findings of the coram nobis court are reviewed for clear error, while the ultimate mixed question of whether counsel's performance violated a constitutional right is reviewed independently. |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                        |
| PARTIES               | State of Maryland v. Juan Carlos Sanmartin Prado                                                                                                                                                                                                      |

#### TOPICS

criminal procedure

right to counsel

ineffective assistance

criminal immigration

post-conviction relief

## PRACTICE AREAS

criminal procedure

immigration

post-conviction relief

ineffective assistance of counsel

## QUESTIONS PRESENTED

1. Whether a plea of not guilty by way of an agreed statement of facts was the functional equivalent of a guilty plea for purposes of advising a noncitizen defendant about immigration consequences.
2. Whether defense counsel's advice that second-degree child abuse was a deportable offense, that the defendant could be deported if the federal government initiated proceedings, and that there could and probably would be immigration consequences constituted constitutionally deficient performance under *Padilla v. Kentucky* and *Strickland v. Washington*.
3. Whether counsel's advice complied with Maryland Rule 4-242(f)'s collateral-consequences advisement requirement.
4. Whether Sanmartin Prado was entitled to coram nobis relief based on ineffective assistance of counsel.

## HOLDINGS

1. A plea of not guilty by way of an agreed statement of facts may be treated as the functional equivalent of a guilty plea for purposes of immigration-consequences advisements when the circumstances show that conviction is effectively certain and the proceeding is not a contested trial.
2. Counsel's advice was not constitutionally deficient where counsel advised the noncitizen defendant before the proceeding that the offense was deportable, that he could be deported if the federal government initiated proceedings, and that there could and probably would be immigration consequences.
3. Sanmartin Prado failed to establish deficient performance under the first prong of *Strickland*, so he was not entitled to coram nobis relief on his ineffective-assistance claim.
4. Counsel's advisements satisfied Maryland Rule 4-242(f) because the defendant was advised that the conviction could result in deportation and other immigration consequences.

## KEY QUOTATIONS

*“such advice was not constitutionally deficient, but rather was “correct advice” about the “risk of deportation,” as required by Padilla” (at 708)*

*“Padilla does not require the use of specific magic words when advising a client of the risk of deportation” (at 713)*

## FACTUAL BACKGROUND

Sanmartin Prado, an Ecuadorian citizen and lawful permanent resident, was charged with child abuse and assault after his three-year-old daughter suffered serious burns while in his care. He proceeded on a not-guilty agreed

statement of facts to second-degree child abuse, and the remaining charges were nol prossed after the court found him guilty. Before the proceeding, defense counsel advised him that the offense was deportable, that he could be deported if the federal government initiated proceedings, and that there could and probably would be immigration consequences. Sanmartin Prado later faced immigration proceedings and claimed that counsel should have told him deportation was automatic.

## PROCEDURAL HISTORY

Sanmartin Prado pleaded not guilty by way of an agreed statement of facts to second-degree child abuse and was convicted and sentenced in the Circuit Court for Baltimore County. More than two years later, while facing immigration proceedings, he sought coram nobis relief based on ineffective assistance of counsel for allegedly failing to advise him that the conviction would result in deportation. The circuit court denied relief. The Court of Special Appeals reversed and remanded, concluding that counsel's qualified immigration advice was deficient. The Court of Appeals granted certiorari and reversed the intermediate appellate court.

## DISPOSITION

reversed

## REMAND INSTRUCTIONS

The judgment of the Court of Special Appeals was reversed, leaving the circuit court's denial of coram nobis relief in place.

## CASES CITED

- Padilla v. Kentucky, 559 U.S. 356 (2010)
- Denisyuk v. State, 422 Md. 462, 30 A.3d 914 (2011)
- Strickland v. Washington, 466 U.S. 668 (1984)
- Sutton v. State, 289 Md. 359, 424 A.2d 755 (1981)
- Taylor v. State, 388 Md. 385, 879 A.2d 1074 (2005)
- State v. Smith, 443 Md. 572, 117 A.3d 1093 (2015) (per curiam)
- Chacon v. State, 409 S.W.3d 529 (Mo. Ct. App. 2013)
- State v. Shata, 868 N.W.2d 93 (Wis. 2015)
- Commonwealth v. Escobar, 70 A.3d 838 (Pa. Super. Ct. 2013)
- United States v. Bonilla, 637 F.3d 980 (9th Cir. 2011)
- United States v. Akinsade, 686 F.3d 248 (4th Cir. 2012)
- State v. Favela, 311 P.3d 1213 (N.M. Ct. App. 2013)
- Facey v. State, 143 So. 3d 1003 (Fla. Dist. Ct. App. 2014) (per curiam)
- State v. Jones, 138 Md. App. 178, 771 A.2d 407 (2001), aff'd, 379 Md. 704, 843 A.2d 778 (2004)

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