

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Farhane v. United States

No. 20-1666, United States Court of Appeals for the Second Circuit (August 11, 2023)

SUMMARY

The Second Circuit held that civil denaturalization is a collateral consequence of a guilty plea, and thus counsel’s failure to warn of denaturalization or subsequent deportation does not violate the Sixth Amendment right to effective assistance under **Strickland v. Washington**. The court reaffirmed the direct/collateral distinction post-**Padilla v. Kentucky**, limiting **Padilla**’s holding to deportation and declining to extend it to denaturalization because denaturalization lacks the “automatic” relationship to conviction that deportation has. The opinion also addressed the waiver of a **Teague** defense and the distinction between Fifth Amendment due process obligations of a court and Sixth Amendment obligations of counsel.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	John M. Walker, Jr.; Richard C. Wesley; Susan L. Carney
JURISDICTION	Federal
DECIDED	August 11, 2023
DOCKET	20-1666
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a 28 U.S.C. § 2255 habeas petition to vacate guilty plea, conviction, and sentence.
PRECEDENTIAL VALUE	Published
PARTIES	Abderrahmane Farhane v. United States of America

TOPICS

- habeas corpus
- ineffective assistance
- sixth amendment
- deportation
- naturalization
- criminal procedure
- appellate procedure

PRACTICE AREAS

- Criminal Law
- Immigration Law
- Constitutional Law

QUESTIONS PRESENTED

1. Whether the Sixth Amendment requires defense counsel to warn a naturalized citizen client of the risk of denaturalization and subsequent deportation before the client enters a guilty plea.
2. Whether the direct/collateral consequences distinction remains viable after *Padilla v. Kentucky* for consequences other than deportation.
3. Whether civil denaturalization is a direct or collateral consequence of a guilty plea.

HOLDINGS

1. The Sixth Amendment does not require attorneys to warn of the risk of denaturalization because denaturalization is a collateral consequence of a conviction, and collateral consequences are categorically removed from the scope of the Sixth Amendment right to effective assistance of counsel.

KEY QUOTATIONS

“Because civil denaturalization is a collateral and not a direct consequence of a conviction, we agree that the Sixth Amendment does not require attorneys to warn of that risk.” (at 6-7)

“The framework is so uniformly applied that, despite lacking explicit Supreme Court sanction, it has been described as ‘one of the most widely recognized rules of American law.’” (at 9)

“Padilla’s ‘chink’ in the otherwise solid wall of precedent does not justify the wholesale abandonment of the direct/collateral distinction.” (at 10)

“Civil denaturalization, by contrast, lacks this ‘automatic’ relationship to the guilty plea. It depends not on the fact of conviction but on the individual’s actions before and at the time of naturalization.” (at 14)

“A consequence is collateral if it does not ‘directly flow[] from the judgment,’ even if it ‘depend[s] on a conviction of [a] crime.’” (at 15)

FACTUAL BACKGROUND

Farhane, a naturalized U.S. citizen born in Morocco, pleaded guilty in 2006 to providing false statements and conspiring to violate the money laundering statute. In his allocution, he admitted to conspiring in 2001 to transfer money to mujahideen in Afghanistan and Chechnya. He was sentenced to 156 months' imprisonment and two years' supervised release. He was naturalized in 2002, and during the naturalization process he falsely stated he had never knowingly committed a crime. The government later sought to revoke his citizenship under 8 U.S.C. § 1451(a) based on the conduct underlying his guilty plea.

PROCEDURAL HISTORY

Farhane pleaded guilty in 2006 to providing false statements and conspiracy to commit money laundering. After his conviction became final in 2011, he was released from custody in 2017. In 2018, the government filed a denaturalization complaint. Farhane then filed a § 2255 petition asserting ineffective assistance of counsel for failure to warn of denaturalization and deportation risks. The district court denied the petition. The Second Circuit granted a certificate of appealability.

DISPOSITION

affirmed

CASES CITED

- Strickland v. Washington, 466 U.S. 668 (1984)
- Padilla v. Kentucky, 559 U.S. 356 (2010)
- Chaidez v. United States, 568 U.S. 342 (2013)
- United States v. Parrino, 212 F.2d 919 (2d Cir. 1954)
- United States v. Youngs, 687 F.3d 56 (2d Cir. 2012)
- United States v. Reeves, 695 F.3d 637 (7th Cir. 2012)
- Hill v. Lockhart, 474 U.S. 52 (1985)
- Brady v. United States, 397 U.S. 742 (1970)
- United States v. Del Rosario, 902 F.2d 55 (D.C. Cir. 1990)
- United States v. Salmon, 944 F.2d 1106 (3d Cir. 1991)
- Santiago v. Laclair, 588 F. App'x 1 (2d Cir. 2014)
- Torrey v. Estelle, 842 F.2d 234 (9th Cir. 1988)
- United States v. Santelises, 509 F.2d 703 (2d Cir. 1975)
- Kungys v. United States, 485 U.S. 759 (1988)
- Fedorenko v. United States, 449 U.S. 490 (1981)
- Knauer v. United States, 328 U.S. 654 (1946)
- Lafler v. Cooper, 566 U.S. 156 (2012)
- Teague v. Lane, 489 U.S. 288 (1989)
- Greene v. United States, 13 F.3d 577 (2d Cir. 1994)
- Danforth v. Minnesota, 552 U.S. 264 (2008)
- Maietta v. Artuz, 84 F.3d 100 (2d Cir. 1996)