

Vacating Convictions Under *Padilla*
National Master Class on Ineffective Assistance of Counsel

Presented by the Law Offices of Norton Tooby

Saturday, March 10, 2012 - Berkeley, CA

Seminar Outline

08:30 a.m.	Registration Begins
09:00 a.m.	Introduction and Outline
09:15 a.m.	Session I: Evaluating the Chances of PCR Success
10:45 a.m.	Break
11:00 a.m.	Session II: Immigration-Related Claims of Ineffective Assistance of Counsel After <i>Padilla</i>
12:15 p.m.	Lunch
01:15 p.m.	Session III: Proof of Prejudice
02:30 p.m.	Break
02:45 p.m.	Session IV: Overcoming Barriers to Relief: Procedure, Vehicles, and Retroactivity
04:15 p.m.	Questions and Answers
05:00 p.m.	Seminar Ends

Table of Contents

Detailed Seminar Outline	1
Note Guides	3
Session I: Evaluating the Chances of PCR Success.....	3
Session II: Implications of <i>Padilla</i> for Post-Conviction Relief – Procedure, Vehicles, and Retroactivity.....	10
Session III: Immigration-Related Claims of Ineffective Assistance of Counsel	13
Session IV: Proof of Prejudice.....	16

Materials

Practice Aids by Norton Tooby

1. N. Tooby, Winning <i>Padilla</i> Cases	19
2. N. Tooby, Post-Conviction <i>Padilla</i> Claims	20
3. N. Tooby, Tooby’s Guide to Criminal Immigration Law, Chapter 5, Post-Conviction Procedure	28
4. Intake Information Sheet.....	48
5. Plan of Attack Form.....	53
6. Post-Conviction Case Evaluation Checklist	54
7. N. Tooby, Evaluating the Chances of Obtaining Post-Conviction Relief	55
8. Checklist of Guilty Plea Grounds of Legal Invalidity	82
9. N. Tooby, Effective Order: Post-Conviction Relief Orders That Will Be Effective in Immigration Court	85

Prosecutorial Duty to Negotiate Immigration Consequences

10. N. Tooby, Prosecutorial Duty to Negotiate Immigration Consequences.....	114
a. Los Angeles District Attorney’s Office, Special Directive 03-04 Collateral Consequences (25, 2003)	117
b. Jeff Rosen, District Attorney, Santa Clara County, California, Memo re Collateral Consequences (Sept 14, 2011)	121

Continuing Removal Proceedings to Allow Time to Obtain Post-Conviction Relief

11. Continuing Removal Proceedings to Allow Time to Obtain Post-Conviction Relief	126
a. Anonymous BIA Decision Remanding Case to Allow Presentation of Evidence to IJ Concerning Respondent’s Request for <i>Padilla</i> Post-Conviction Relief.....	127
b. Respondent’s Supplemental Brief in Support of Oral Motion for a Continuance [of Removal Proceedings to Allow Time for Post-Conviction <i>Padilla</i> Claim to be Adjudicated in Criminal Court]	130
c. Anonymous BIA Decision in Matter of Ingram	137

Practice Advisories

- 12. Immigrant Defense Project, Practice Advisory, Duty of Criminal Defense Counsel
Representing an Immigrant Defendant After *Padilla v. Kentucky**139
- 13. D. Kesselbrenner, National Immigration Project, Practice Advisory: Retroactive
Applicability of *Padilla v. Kentucky**155

Law Review Article

- 14. J. Roberts, Proving Prejudice, Post-*Padilla*, 54 Howard L.J. 693 (2011)*164

Judicial Decisions

- 15. *Padilla v. Kentucky*, 130 S.Ct. 1473 (March 31, 2010)220
- 16. *United States v. Orocio*, 645 F.3d 630 (June 29, 2011)237
- 17. *Denisyuk v. State*, ___ A.3d ___, 2011 WL 5042332 (Ct. App. Md. October 25, 2011)251
- 18. *Commonwealth v. Clarke*, 460 Mass. 30, 949 N.E.2d 892 (June 17, 2011)267
- 19. *State v. Sandoval*, 171 Wash.2d 163, 249 P.3d 1015 (March 17, 2011)277

Pleadings

- 20. Petition for a Writ of Certiorari, *Chaidez v. United States* (national review of *Padilla*
retroactivity decisions)286
- 21. Brief of Amicus Curiae, *People v. Andrews* (*Padilla* retroactivity, duty to advise that state
rehabilitative relief is ineffective to remove immigration consequences, and prejudice)322
- 22. Brief of Amicus Curiae, *Commonwealth v. Marinho* (raises *Padilla* plea bargaining error
after trial)358

Other Resources

- About the Presenters396
- Other Resources397

*Reprinted by permission