

Press Release

Thursday, April 1, 2010

Cleveland, OH-

Scott E. Bratton, a leading immigration attorney based in Cleveland, Ohio, had his article cited by the United States Supreme Court in the March 31, 2010 decision in *Padilla V. Kentucky*, No. 08-651.

On March 31, 2010, the United States Supreme Court issued a landmark decision that will have a substantial positive impact on the criminal justice system. In *Padilla v. Kentucky*, No. 08-651, the United States Supreme Court addressed the issue of whether defense counsel has an obligation to inform a noncitizen criminal defendant that a guilty plea carries a risk of deportation. In a 7-2 decision, the United States Supreme Court held that defense counsel must inform a client whether his plea carries the risk of deportation.

The *Padilla* case involved a lawful permanent resident who entered a guilty plea to drug distribution charges in Kentucky. His plea would ultimately result in certain deportation. Padilla moved to withdraw his plea and vacate his conviction alleging ineffective assistance of counsel. He claimed that counsel did not tell him that he could be deported and that he said not to worry about deportation because he had lived in the United States a long time.

The Supreme Court found that the lawyer's performance was deficient. The holding of the case applies not only to affirmative misadvice about immigration consequences made by a lawyer but also places a burden on defense counsel to inform a client whether the plea carries the risk of deportation. We applaud the Court for recognizing the importance of immigration consequences to a criminal defendant. In order for a plea to be knowing and voluntary, a defendant must know that a plea carries the risk of deportation.

Bratton, a Partner at Margaret W. Wong & Assoc. Co., LPA is the lead attorney in more than ten precedent-setting immigration and criminal cases in numerous federal circuit courts throughout the United States. Bratton is the head of the Litigation and Appellate Division at Margaret W. Wong & Associates. Margaret Wong & Associates and Mr. Bratton have long advocated for the rights of noncitizens in criminal proceedings. Margaret W. Wong & Associates have been leading litigators in this area of law in an attempt to provide for fairness for immigrants in criminal proceedings. The firm has been counsel of record in numerous important Ohio appellate decisions regarding the requirement that a criminal court advise a criminal defendant about all three potential adverse immigration consequences of a plea (deportation, denial of naturalization, and exclusion from admission to the United States) pursuant to the Ohio Revised Code and defense counsel's obligations when representing a noncitizen in criminal proceedings. One of Mr. Bratton's cases was cited by Mr. Padilla's lawyers in his Supreme Court brief. *State v. Creary*, 2004 Ohio 858 (Ohio 8th Dist. 2004).

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