

FATE OF IMMIGRANTS AWAITING DEPORTATION HINGE ON FLORIDA COURT DECISION



Defendants who took plea deals years ago, and are now facing deportation, have alleged that their lawyers had not warned them of this aspect of their decision. The Florida Supreme Court will be hearing their arguments this week. Gabriel Hernandez 30, residing in the US since he was two, was from Nicaragua. He is, today, a legal resident of US and works as a successful computer network administrator for a Miami bank group. He blotched up his success story when, at 19 years of age, he was arrested on charges of selling LSD. Hernandez pleaded guilty, as a first time offender and accepted a year of probation in return for a guarantee that no lawbreaking conviction would appear on his record. This week his case will be heard by the Florida Supreme Court and his lawyers will argue that his plea deal should be thrown out. The verdict will have far-reaching consequences on hundreds of similar cases in Florida. Padilla, a Honduran native, has been residing in the US for 40 years and has served in the Vietnam War. He too, unaware that it could lead to his deportation, pleaded guilty to marijuana trafficking in 2001. He managed to have his conviction thrown out, on the grounds that his lawyer had failed to warn him that he could be deported if he pleaded guilty. This outcome is what Hernandez and others facing similar cases are banking on to help them to strike down their convictions. The hitch is that many legal experts opine that maybe the Padilla decision will not apply to past cases like Hernandez's. Miami's appeals court has turned down 71 similar cases, and not it is interesting to see if the Supreme Court feels the same. Hernandez's current attorney Michael Vastine, director of St. Thomas University's Immigration Clinic said, "When Gabriel took the plea, he did not agree to take a plea and be sent back to the country in which his mother took him when he was one and half years old. His attorney never told him that." On Tuesday, Hernandez's lawyers will argue to the Florida Supreme Court that the Padilla case should certainly be applied to past cases. However, legal experts are not very optimistic about the court doing so. Ediberto Roman, a Florida International University law professor who specializes in immigration issues said, "Given this court, I'm not optimistic. If you look at the issue of efficiency and political and judicial philosophy, I think the court may very well come to the conclusion that retroactivity is not applicable." The U.S. Attorney General's Office says that "applying it retroactively would be overwhelming to the administration of justice" — flooding the courts with thousands of cases, most of them so old that witnesses or evidence in the cases have disappeared. If you're looking for attorney jobs, [click here](#).