

# ¿Qué Pueden Hacer? Ineffective-Assistance-of-Counsel Claims in a Post-Padilla World

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## ABSTRACT

This paper analyzes the U.S. Supreme Court's decision in *Padilla v. Kentucky*, wherein it addressed ineffective-assistance-of-counsel claims brought forth by a lawful immigrant. It goes on to examine ensuing applications of the *Padilla* decision by Federal Circuit Courts in *United States v. Orocio* and *United States v. Chaidez*. In *Padilla v. Kentucky* the Court held that legal counsel must advise immigrants facing legal charges of the risk of deportation. The Circuit Courts provided contradictory interpretations about whether or not the *Padilla* decision should be applied retroactively. The paper goes on to point out that most immigration matters are decided by immigration judges and the Board of Immigration Appeals (BIA). It further holds that since federal judges and state courts have little experience adjudicating immigration matters, the action of determining whether an attorney has rendered effective counsel concerning immigration matters become even more difficult. The paper contends that regardless of the various interpretations of the *Padilla* decision by the Circuit Courts, changes at the local, state, and Federal levels are needed to ensure that the Sixth Amendment rights of those with immigration statuses are protected.

## ABOUT THE AUTHOR

Patrick O'Brien has dual bachelors and master degrees from the University of Notre Dame and spent two years teaching secondary Spanish in Phoenix, Arizona. He recently completed the second year of law school at Michigan State University College of Law.