

# Challenging Crime-based Removability

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# Criminal Defense of Immigrants

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## *Pre-Padilla v. Kentucky*


- Immigration a collateral consequence, or
- Affirmative mis-advice considered ineffective assistance

## *Padilla v. Kentucky, 130 S.Ct. 1473 (2010)*

- Recognized dramatic changes in immigration law
  - Sixth Amendment right to be informed whether “plea carries risk of deportation”.
  - Applied standards set in *Strickland v. Washington*
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# Myths— Immigration Consequences

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- The client did not plea to a felony; it was just a misdemeanor.
  - The client served probation (or jail time for less than 6 months).
  - The client was not convicted (or the conviction doesn't count under state law).
  - The 5th Circuit, or the BIA, already held that the conviction was not a deportable offense.
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Also available as part of the eCourse

[2022 A Practical Guide to Immigration Removal Proceedings eConference](#)

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"Challenging Crime-Based Grounds of Deportability"