

SUMMARY STATEMENT
Ivan Marroquin Valdovinos v. State of Idaho
Docket No. 51308

In this case arising out of Kootenai County, the Court of Appeals affirmed the district court's judgment summarily dismissing Ivan Marroquin Valdovinos' petition for post-conviction relief. On appeal Valdovinos argued that ineffective assistance of counsel--specifically, trial counsel's failure to inform Valdovinos of potential immigration consequences--warranted equitable tolling of the statute of limitations for his petition for post-conviction relief. Valdovinos contended that the ineffective assistance of counsel claim, for his trial counsel's failure to advise Valdovinos of the immigration consequences of pleading guilty, should toll the deadline for his post-conviction petition to the date when he received the affidavit from his trial counsel because it is akin to a violation pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963). In the alternative, Valdovinos argued that the district court erred by summarily dismissing his claim without an evidentiary hearing. In response, the State countered that Valdovinos' petition was untimely and did not meet the high bar for equitable tolling.

The Idaho Court of Appeals held that an ineffective assistance of counsel claim for failure to advise of immigration consequences is different than a *Brady* violation because the petitioner has access to the materials and information that formed the basis of the claim, namely his or her immigration status, during the pretrial and trial proceedings. Additionally, Valdovinos had been informed of the immigration consequences at his plea hearing, placing him on notice, and precluding tolling. Next, the Court held that there is no precedent in Idaho jurisprudence, even in capital cases, that allows the timeline for an ineffective assistance of counsel claim to start from the date a petitioner assembles a complete cache of evidence. The Court also held that *Padilla v. Kentucky*, 559 U.S. 356 (2010) does not impose an automatic duty on attorneys to inquire about his or her client's immigration status, and under the circumstances of this case the trial counsel had no reason to ask Valdovinos about his immigration status. Lastly, the Court concluded that there was no genuine issue of material fact warranting an evidentiary hearing prior to dismissing the post-conviction petition. Valdovinos requested an award of attorney fees. The Court declined to award attorney fees to Valdovinos.

*This summary constitutes no part of the opinion of the Court, but has been prepared
by court staff for the convenience of the public.*