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CRIMINAL LAW — PLEA DEALS AND COLLATERAL CONSEQUENCES — TENTH CIRCUIT HOLDS THAT DEFENDANT NEED NOT BE INFORMED OF COLLATERAL CONSEQUENCES BEFORE PLEADING NO CONTEST. — *United States v. Muhammad*, 747 F.3d 1234 (10th Cir.), *cert. denied*, 134 S. Ct. 2741 (2014).

Because of the overwhelming predominance of plea deals,<sup>1</sup> most criminal defendants never enjoy the constitutional protections enshrined at trial. Instead, the experiences of many defendants in our criminal justice system are shaped by stringent sentencing guidelines that enhance the power of prosecutors during plea-deal negotiations.<sup>2</sup> When plea deals are brought before the courts, the judicial focus centers on the defendant's knowledge of potential jail terms and fines instead of on her knowledge of a conviction's collateral consequences.<sup>3</sup> These conditions intertwine to fashion a justice system in which many defendants waive vital trial rights without full awareness of the repercussions of their actions.<sup>4</sup> In *Brady v. United States*,<sup>5</sup> the Supreme Court required that a criminal defendant be "fully aware of the direct consequences" of a plea in order for it to be valid under the Fifth Amendment's Due Process Clause.<sup>6</sup> Lower courts have interpreted this statement to mean that defendants have a constitutional right to knowledge of the direct — but not *collateral* — consequences of their plea.<sup>7</sup> Recently, in *United States v. Muhammad*,<sup>8</sup> the Tenth Circuit held that certain consequences, including difficulty obtaining credit, employment, federal financial aid, and Section 8 housing, were collateral and therefore a guilty plea could be knowing and voluntary without awareness of those consequences.<sup>9</sup> While *Muhammad* relied on circuit precedent, the strength of that precedent may have been called

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<sup>1</sup> See Alafair S. Burke, *Prosecutorial Passion, Cognitive Bias, and Plea Bargaining*, 91 MARQ. L. REV. 183, 183 n.1 (2007) (noting that over ninety-five percent of convictions were based on guilty or no-contest pleas).

<sup>2</sup> See Elizabeth A. Parsons, Note, *Shifting the Balance of Power: Prosecutorial Discretion Under the Federal Sentencing Guidelines*, 29 VAL. U. L. REV. 417, 422 (1994).

<sup>3</sup> Broadly defined, collateral consequences are sanctions that attach to a conviction separate from sentencing and fines. See Margaret Colgate Love, *Collateral Consequences After Padilla v. Kentucky: From Punishment to Regulation*, 31 ST. LOUIS U. PUB. L. REV. 87, 89 n.6, 97 (2011).

<sup>4</sup> See Jenny Roberts, *The Mythical Divide Between Collateral and Direct Consequences of Criminal Convictions: Involuntary Commitment of "Sexually Violent Predators,"* 93 MINN. L. REV. 670, 702 (2008).

<sup>5</sup> 397 U.S. 742 (1970).

<sup>6</sup> *Id.* at 755 (quoting *Shelton v. United States*, 246 F.2d 571, 572 n.2 (5th Cir. 1957) (en banc), *rev'd on confession of error on other grounds*, 356 U.S. 26 (1958) (per curiam)).

<sup>7</sup> See, e.g., *United States v. Ocasio-Cancel*, 727 F.3d 85, 89 (1st Cir. 2013); *United States v. Nicholson*, 676 F.3d 376, 381 (4th Cir. 2012); *Steele v. Murphy*, 365 F.3d 14, 17 (1st Cir. 2004); *United States v. Sambro*, 454 F.2d 918, 922 (D.C. Cir. 1971) (en banc).

<sup>8</sup> 747 F.3d 1234 (10th Cir.), *cert. denied*, 134 S. Ct. 2741 (2014).

<sup>9</sup> *Id.* at 1235.

into question by *Padilla v. Kentucky*,<sup>10</sup> a 2010 case in which the Supreme Court held that defense counsel had been deficient under the Sixth Amendment by failing to advise his client that a guilty plea would result in automatic deportation.<sup>11</sup> In light of *Padilla*, the *Muhammad* court should have taken the opportunity to reassess Tenth Circuit precedent concerning collateral consequences.

On September 5, 2012, Sevgi Muhammad was indicted in the U.S. District Court for the Northern District of Oklahoma on counts of mail fraud, making a false statement, and stealing public money.<sup>12</sup> Muhammad, who emigrated from Turkey, received rent subsidies from the Department of Housing and Urban Development based on allegedly false statements in her application that she was not receiving any income.<sup>13</sup> She entered a plea of no contest to one count of making a false statement in exchange for the government dropping the other counts and agreeing not to oppose a sentence of probation.<sup>14</sup> Before accepting the plea, the district court verified Muhammad's familiarity with the indictment and the plea agreement as well as her understanding of the Turkish interpreters.<sup>15</sup> After also confirming her understanding of the rights she was waiving, and her knowledge of a potential five-year prison sentence and \$250,000 fine, the district court accepted the plea.<sup>16</sup>

The defendant later moved to withdraw the plea before the sentencing hearing, arguing that the plea was not knowingly made because she did not understand that entering a no-contest plea meant she would be found guilty.<sup>17</sup> After holding an evidentiary hearing, the district court determined that Muhammad had known that she would be found guilty when she entered a no-contest plea.<sup>18</sup> The judge then denied her motion to withdraw her plea, stating that the plea had been knowing and voluntary,<sup>19</sup> and sentenced her to three years' probation and \$1698 in restitution.<sup>20</sup> Muhammad appealed, arguing that her plea was not knowing and voluntary based on the undisputed fact that she had not been informed that conviction would make it difficult for her to obtain credit, employment, federal financial aid, and Section 8

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<sup>10</sup> 130 S. Ct. 1473 (2010).

<sup>11</sup> *Id.* at 1486–87.

<sup>12</sup> *Muhammad*, 747 F.3d at 1235; Answer Brief of the United States at 1, *Muhammad*, 747 F.3d 1234 (No. 13-5040), 2013 WL 5304309, at \*1.

<sup>13</sup> *Muhammad*, 747 F.3d at 1235.

<sup>14</sup> *Id.* at 1235–36.

<sup>15</sup> *Id.* at 1236.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 1239. The evidentiary hearing focused on issues with translation, the defendant's ability to speak English, and the defense counsel's advice to his client. *Id.* at 1237.

<sup>19</sup> *Id.* at 1239.

<sup>20</sup> *Id.* at 1235.

housing, as well as preclude her from owning a gun and make her future testimony in court suspect.<sup>21</sup>

The Tenth Circuit affirmed.<sup>22</sup> Writing for the panel, Judge Hartz<sup>23</sup> held that the consequences of which the defendant had not been informed were collateral and that the Fifth Amendment's Due Process Clause did not require that the defendant be informed of collateral consequences prior to entering a plea.<sup>24</sup> The relevant section of the opinion began by referencing the Supreme Court's declaration in *Brady* that a knowing and voluntary plea requires that the defendant be "fully aware of the direct consequences."<sup>25</sup> The court then cited Tenth Circuit precedent interpreting the word "direct" to exclude collateral consequences,<sup>26</sup> and defining "collateral consequences" as those that, like the consequences at issue in *Muhammad*, are "unrelated to the length and nature of the federal sentence."<sup>27</sup> After noting that Muhammad could point to no cases supporting her position that a lack of awareness of collateral consequences renders a plea unconstitutional, the Tenth Circuit then concluded that the consequences raised on appeal were collateral, and thus her unawareness did not invalidate the plea.<sup>28</sup>

The *Muhammad* court's holding is typical of the circuit courts' collateral-consequences jurisprudence.<sup>29</sup> While unexceptional in that sense, this case illustrates the unfairness that is inherent in this jurisprudence. The potential direct consequences at issue in Muhammad's plea deal — five years' imprisonment and a \$250,000 fine — might seem to outweigh the collateral consequences. But a closer look may change the calculus for a defendant contemplating a plea deal. While *Padilla* recognized this changed calculus in light of the increasing sig-

<sup>21</sup> *Id.* at 1240. Muhammad also appealed the lower court's refusal to allow the withdrawal of her plea. *Id.* at 1241.

<sup>22</sup> *Id.* at 1235.

<sup>23</sup> Judge Hartz was joined by Judges O'Brien and Holmes.

<sup>24</sup> *Muhammad*, 747 F.3d at 1235. The court also held that the plea was knowing and voluntary despite the defendant's claim that she did not understand the difference between a plea of no contest and a guilty plea, and found no abuse of discretion in the district court's refusal to allow withdrawal of the plea. *Id.* at 1241.

<sup>25</sup> *Id.* at 1239 (quoting *Brady v. United States*, 397 U.S. 742, 755 (1970) (emphasis added)) (emphasis omitted).

<sup>26</sup> *Id.* at 1239 (citing *United States v. Krejcarek*, 453 F.3d 1290, 1297 (10th Cir. 2006)).

<sup>27</sup> *Id.* at 1240 (quoting *United States v. Hurlich*, 293 F.3d 1223, 1231 (10th Cir. 2002)); see also *id.* at 1239–40 (citing *Krejcarek*, 453 F.3d at 1297). The cases cited were both decided several years before *Padilla*.

<sup>28</sup> *Id.* at 1240. The Tenth Circuit opinion also cited cases from other circuits that found consequences similar to those at issue in *Muhammad* to be collateral, such as the loss of federal benefits and civil service positions, as well as the revocation of a pilot's license. *Id.* (citing *United States v. Nicholson*, 676 F.3d 376, 382 (4th Cir. 2012); *Kratt v. Garvey*, 342 F.3d 475, 485 (6th Cir. 2003); and *United States v. Crowley*, 529 F.2d 1066, 1072 (3d Cir. 1976), among other cases).

<sup>29</sup> See *Roberts*, *supra* note 4, at 672.

nificance of a conviction's collateral consequences, *Muhammad* instead relied uncritically on pre-*Padilla* precedent to reach its decision. Although the current collateral-consequences rule may seek to promote system-wide efficiency and finality, it also regularly allows under-informed defendants to plead guilty.

Given the stark clarity of circuit precedent,<sup>30</sup> the Tenth Circuit in *Muhammad* engaged in a very cursory analysis of the district court's failure to notify Muhammad of the collateral consequences of her plea. However, this precedent, on which the court's holding was plainly based, may need to be revisited, as the origin of the collateral-consequences rule itself "rel[ies] on no legal authority."<sup>31</sup> The lower courts created this rule by interpreting the Supreme Court's opinion in *Brady*<sup>32</sup> to mean that a defendant has a constitutional right to be made aware of a conviction's direct — *but not collateral* — consequences before entering a plea.<sup>33</sup>

However, the Tenth Circuit should have reexamined this precedent in light of the Supreme Court's most recent treatment of plea deals and collateral consequences in *Padilla*. Although the Supreme Court declined to explicitly label deportation as a direct or collateral consequence in *Padilla*, the majority recognized that "deportation is an integral part . . . of the penalty that may be imposed on noncitizen defendants who plead guilty . . ."<sup>34</sup> The opinion highlighted the changes in immigration law that have expanded the class of deportable offenses and reduced the possibility of discretionary relief.<sup>35</sup> The Court emphasized that such changes "have dramatically raised the stakes of a noncitizen's criminal conviction."<sup>36</sup> An analogy to the Court's reasoning, if not its exact holding, can be made beyond the context of deportation, as the expansion of collateral consequences has generally

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<sup>30</sup> See *Krejcarek*, 453 F.3d at 1296–97.

<sup>31</sup> Paisly Bender, Comment, *Exposing the Hidden Penalties of Pleading Guilty: A Revision of the Collateral Consequences Rule*, 19 GEO. MASON L. REV. 291, 302 (2011).

<sup>32</sup> See *Brady v. United States*, 397 U.S. 742, 755 (1970) ("[A] plea of guilty entered by one fully aware of the direct consequences . . . must stand . . .") (quoting *Shelton v. United States*, 246 F.2d 571, 572 n.2 (5th Cir. 1957) (en banc), *rev'd on confession of error on other grounds*, 356 U.S. 26 (1958) (per curiam)).

<sup>33</sup> See, e.g., *United States v. Sambro*, 454 F.2d 918, 922 (D.C. Cir. 1971) (en banc). The distinction between direct and collateral consequences has been difficult to pin down, as the Supreme Court itself has acknowledged. See *Padilla v. Kentucky*, 130 S. Ct. 1473, 1481 n.8 (2010). Direct consequences have typically been restricted to sanctions such as incarceration and fines, see Roberts, *supra* note 4, at 672, but there is variation amongst the courts concerning how exactly to define the distinction, Jenny Roberts, *Ignorance Is Effectively Bliss: Collateral Consequences, Silence, and Misinformation in the Guilty-Plea Process*, 95 IOWA L. REV. 119, 124 n.15 (2009).

<sup>34</sup> *Padilla*, 130 S. Ct. at 1480. Prior to *Padilla*, some circuit courts had held that deportation was a collateral consequence. See, e.g., *United States v. Russell*, 686 F.2d 35, 39 (D.C. Cir. 1982).

<sup>35</sup> *Padilla*, 130 S. Ct. at 1478.

<sup>36</sup> *Id.* at 1480.

“raised the stakes” for defendants.<sup>37</sup> Sanctions that go beyond the “length and nature” of the sentence and that are not judicially enforced could very reasonably be considered “integral” to the penalty. *Padilla*’s recognition that criminal defendants should be made aware of certain penalties beyond the sentence may indicate that the circuit precedent on which *Muhammad* relied should be reexamined.

But the extent to which *Padilla*’s reasoning concerning deportation in the Sixth Amendment context applies to collateral-consequences jurisprudence under the Fifth Amendment is unclear. In *Padilla*, the Court emphasized the uniqueness of deportation, focusing on its severity and automatic nature.<sup>38</sup> Additionally, *Padilla* concerned a Sixth Amendment ineffective assistance of counsel claim, while *Muhammad* dealt with the Fifth Amendment right to a knowing, voluntary, and intelligent plea.<sup>39</sup> In considering the applicability of the *Padilla* holding to a Fifth Amendment challenge, the Second Circuit stated that it “was limited to the requirement of counsel to advise of deportation pursuant to their Sixth Amendment responsibilities.”<sup>40</sup> However, the Second Circuit did acknowledge that “*Padilla* may create some uncertainty” around collateral consequences in the context of the Fifth Amendment.<sup>41</sup> This “uncertainty,” which the Second Circuit flagged but did not adequately address in its unquestioning application of the collateral-consequences rule, warrants some reexamination of circuit precedent in light of *Padilla*, even if such analysis would ultimately have led the court to the same conclusion.

Such reevaluation of precedent is especially justified in light of the increasing prevalence of collateral consequences. Given the dramatic expansion in the scope and severity of collateral consequences since the 1980s,<sup>42</sup> as well as the overwhelming predominance of plea

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<sup>37</sup> See, e.g., MARGARET COLGATE LOVE, RELIEF FROM THE COLLATERAL CONSEQUENCES OF A CRIMINAL CONVICTION, at ix–xiii (2006) (“When a person is convicted of a crime, that person becomes subject to a host of legal disabilities and penalties under state and federal law. These so-called collateral consequences of conviction may continue long after the court-imposed sentence has been fully served. Their scope and duration are often unclear not only to those who experience them, but also to those who administer and enforce them.” *Id.* at ix.).

<sup>38</sup> See *Padilla*, 130 S. Ct. at 1481. However, the dissent stated that the majority’s logic could not be limited to the deportation consequence “except by judicial caprice.” *Id.* at 1496 (Scalia, J., dissenting); see also Gabriel J. Chin & Margaret Love, *Status as Punishment: A Critical Guide to Padilla v. Kentucky*, 25 CRIM. JUST., Fall 2010, at 21, 62 (2010) (arguing that *Padilla*’s logic “will ultimately require advice about all important collateral consequences as a matter of Sixth Amendment entitlement”).

<sup>39</sup> This distinction suggests that defense attorneys have greater responsibilities than the trial court with regard to plea advising.

<sup>40</sup> *United States v. Youngs*, 687 F.3d 56, 62 (2d Cir. 2012); see also *United States v. Rodriguez-Gonzales*, 543 Fed. App’x 532, 533–34 (6th Cir. 2013).

<sup>41</sup> *Youngs*, 687 F.3d at 62.

<sup>42</sup> See *Collateral Consequences of Criminal Convictions: Barriers to Reentry for the Formerly Incarcerated*, Hearing Before the Subcomm. on Crime, Terrorism, and Homeland Sec. of the H.

deals,<sup>43</sup> the collateral-consequences rule has a more significant impact on defendants today than it did when it was first conceived.<sup>44</sup> While defendants may plea bargain to reduce a conviction's direct consequences, the potential collateral consequences may often outweigh the direct consequences, especially for minor offenses.<sup>45</sup> The specific sanctions at issue in *Muhammad*, which included difficulty obtaining credit, employment,<sup>46</sup> federal financial aid,<sup>47</sup> and Section 8 housing,<sup>48</sup> have expanded in ways similar to the deportable offenses at issue in *Padilla*. Apart from the unquantifiable noneconomic effects, conviction also results in lost employment opportunities,<sup>49</sup> which might lead to hundreds of thousands of dollars in opportunity cost. In comparison, the plea-bargained consequences that the Tenth Circuit considered to be direct could be relatively minor factors in the defendant's cost-benefit analysis.

Regardless of *Padilla*'s constitutional applicability beyond deportation in the Fifth Amendment context, good public policy therefore strongly favors defendants' increased awareness of a plea's collateral consequences.<sup>50</sup> Of course, requiring courts to notify defendants of collateral consequences has potential drawbacks, particularly harms to

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*Comm. on the Judiciary*, 111th Cong. 19 (2010) [hereinafter *Collateral Consequences*]; Kathleen M. Olivares et al., *The Collateral Consequences of a Felony Conviction: A National Study of State Legal Codes 10 Years Later*, FED. PROBATION, Sept. 1996, at 10, 14–15.

<sup>43</sup> See BUREAU OF JUSTICE ASSISTANCE, U.S. DEP'T OF JUSTICE, PLEA AND CHARGE BARGAINING: RESEARCH SUMMARY (Jan. 24, 2011), <https://www.bja.gov/Publications/PleaBargainingResearchSummary.pdf> [http://perma.cc/3RBR-57R8].

<sup>44</sup> See Roberts, *supra* note 4, at 673–74.

<sup>45</sup> *Id.* at 674 (“Perversely, because of the explosion of arrests and prosecutions for minor offenses over the last two decades, collateral consequences often far outweigh the direct penal sanction of a conviction.”).

<sup>46</sup> See *Collateral Consequences*, *supra* note 42, at 32–34 (describing the increase in criminal background checks, particularly after September 11, and the corresponding impact on workers seeking employment).

<sup>47</sup> A 1998 amendment to the Higher Education Act of 1965 blocks individuals with drug convictions from receiving federal financial aid. See AM. CIVIL LIBERTIES UNION, COLLATERAL CONSEQUENCES OF THE WAR ON DRUGS (Jan. 2003), <https://www.aclu.org/files/FilesPDFs/final%20brochure.pdf> [http://perma.cc/RMW7-K2F9].

<sup>48</sup> See Michael Pinard, *Collateral Consequences of Criminal Convictions: Confronting Issues of Race and Dignity*, 85 N.Y.U. L. REV. 457, 491–92 (2010) (noting that housing authorities have “expanded the types of conduct that will preclude individuals from obtaining public housing,” *id.* at 491); see also Corinne A. Carey, *No Second Chance: People with Criminal Records Denied Access to Public Housing*, 36 U. TOL. L. REV. 545, 566 (2005).

<sup>49</sup> John Schmitt & Kris Warner, *Ex-offenders and the Labor Market*, CENTER FOR ECON. & POL'Y RES. 1, 8–12 (Nov. 2010), <http://www.cepr.net/documents/publications/ex-offenders-2010-11.pdf> [perma.cc/DS5B-5QD5].

<sup>50</sup> See, e.g., Love, *supra* note 3, at 117 (“*Padilla* can thus best be understood as a constitutional prompt to address, through non-constitutional means, what has become a vexing social problem.”).

efficiency.<sup>51</sup> The sharp distinction between direct and collateral consequences has been criticized as formalistic,<sup>52</sup> but it promotes efficiency and finality in the plea-deal system.<sup>53</sup> Requiring judges to conduct inquiries into defendants' knowledge of collateral consequences could be cumbersome as a practical matter.<sup>54</sup> But any loss to efficiency or finality must be weighed against the defendant's need to know the full extent of the repercussions of her waiver of her constitutional rights.<sup>55</sup>

If lower courts continue to find that knowledge of collateral consequences is not constitutionally required because *Padilla* is confined to deportation in the Sixth Amendment context, professional standards and criminal procedure codes could instead help to mitigate the sort of inequity seen in *Muhammad*.<sup>56</sup> Under ABA Standard 19-2.3(a), a court reviewing a guilty plea should ensure that the defendant has been informed of potential collateral consequences under the relevant state and federal law.<sup>57</sup> ABA Standard 14-1.4(c) also directly addresses this issue, recommending that the court advise the defendant of consequences including "the forfeiture of property, the loss of certain civil rights, disqualification from certain governmental benefits . . . [and] a change in the defendant's immigration status."<sup>58</sup> These standards were newly added to the Third Edition of the ABA Standards because "the number and significance of potential collateral consequences [had] grown to such an extent" that it was important to address the issue

<sup>51</sup> One of the primary advantages of a plea-deal system is its increased efficiency relative to trials. See Richard Birke, *Reconciling Loss Aversion and Guilty Pleas*, 1999 UTAH L. REV. 205, 233 ("[P]rosecutors turn time-consuming and resource-expensive investigations and trials into time-efficient pleas, and in so doing, they can keep the numbers of cases closed and the numbers of new cases that come in at a manageable equilibrium.")

<sup>52</sup> See, e.g., Priscilla Budeiri, Comment, *Collateral Consequences of Guilty Pleas in the Federal Criminal Justice System*, 16 HARV. C.R.-C.L. L. REV. 157, 194 (1981); Roberts, *supra* note 4, at 672-73.

<sup>53</sup> For example, the commentary on ABA Standard 19-2.3 suggests that a judicial inquiry into the defendant's knowledge of collateral consequences could be time consuming. STANDARDS FOR CRIMINAL JUSTICE: COLLATERAL SANCTIONS AND DISCRETIONARY DISQUALIFICATION OF CONVICTED PERSONS § 19-2.3 cmt. at 27 (3d ed. 2004).

<sup>54</sup> See Budeiri, *supra* note 52, at 192. Additionally, the apparent difficulty of determining the full range of collateral consequences of any given conviction raises the question of whether the legal system should be structured in this way.

<sup>55</sup> See Roberts, *supra* note 4, at 672-73.

<sup>56</sup> See *id.* at 673; see also AM. CIVIL LIBERTIES UNION ET AL., STATE REFORMS REDUCING COLLATERAL CONSEQUENCES FOR PEOPLE WITH CRIMINAL RECORDS: 2011-2012 LEGISLATIVE ROUND-UP 17-18 (Sept. 2012), <http://www.nelp.org/page/-/sclp/2012/statecollateralconsequenceslegislativeroundupsept2012.pdf> [<http://perma.cc/4RA7-KME5>] (listing legislative attempts to curb collateral effects after conviction).

<sup>57</sup> STANDARDS FOR CRIMINAL JUSTICE: COLLATERAL SANCTIONS AND DISCRETIONARY DISQUALIFICATION OF CONVICTED PERSONS § 19-2.3 (3d ed. 2004).

<sup>58</sup> STANDARDS FOR CRIMINAL JUSTICE: PLEAS OF GUILTY § 14-1.4 (3d ed. 1999). Although advisement of certain sanctions may not be constitutionally required, it may be important "as a matter of sound criminal justice policy." *Id.*, intro. at xv.

separately.<sup>59</sup> Greater specificity in the ABA Standards, as well as a generalized warning<sup>60</sup> delivered by the court, could have a meaningful impact.<sup>61</sup>

The district court in *Muhammad* repeatedly inquired about the defendant's knowledge of the potential sentence and fine before accepting the plea. However, defendants often do not fully appreciate the range of additional consequences that will result from a plea,<sup>62</sup> which have steadily increased over the past few decades. Professional norms and some statutes have begun to recognize the influence that collateral consequences and the predominance of plea deals have had on our justice system. The Supreme Court's reasoning in *Padilla* brings to light the flaws in the collateral-consequences jurisprudence, which the Tenth Circuit's cursory analysis in *Muhammad* failed to examine fully. The current jurisprudence promotes outcomes that are fundamentally at odds with the basic guarantees of our criminal justice system. Whether this issue is addressed judicially, through the legislature, or via professional norms, justice demands that defendants be prompted to consider collateral consequences when negotiating a guilty plea.

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<sup>59</sup> *Id.* at § 14-3.2(f) cmt. at 125–26.

<sup>60</sup> A standardized warning to all defendants, while not foolproof, could be beneficial, especially if the charge is minor and the defendant can anticipate the consequences' immediate effects.

<sup>61</sup> See Budeiri, *supra* note 52, at 202.

<sup>62</sup> See LOVE, *supra* note 37, at x (“[O]ffenders seeking to put their criminal past behind them are frustrated by a legal system that is complex, unclear, and entirely inadequate to the task. As a practical matter, in most jurisdictions people convicted of a crime have no hope of ever being able to fully discharge their debt to society.”).