

Top court to follow up on immigration lawyer case

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WASHINGTON (Reuters) - The Supreme Court agreed on Monday to decide how broadly to apply its two-year old ruling that immigrants have a constitutional right to effective assistance of counsel and must be told about possible deportation stemming from a guilty plea.

The justices said they would consider whether its March 31, 2010, ruling would apply retroactively to previous convictions or would only to convictions after that date. Defense lawyers said in their Supreme Court appeal that the issue has profound practical significance.

In its original ruling, the Supreme Court decided by a 7-2 vote that an immigrant's constitutional right to effective counsel was violated when his attorney mistakenly told him he could plead guilty to drug charges without being deported.

Immigrant rights advocates said at the time the decision could potentially affect thousands of immigrants every year.

Since the decision, U.S. courts of appeals have issued conflicting rulings on whether the high court's ruling applied retroactively. The U.S. Justice Department told the Supreme Court the issue involved a recurring question of substantial importance that warranted review.

The case before the high court involves Roselva Chaidez, who was born in Mexico in 1956, came to the United States in the 1970s and now lives in Chicago. She was indicted in 2003 for participating in a scheme to submit fraudulent automobile insurance claims for personal injuries.

She pleaded guilty and was sentenced to four years of probation and ordered to pay \$22,500 in restitution.

In 2009, Chaidez sought to overturn her conviction on the ground her trial attorney never informed her that deportation was a potential consequence of her guilty plea. She later said she was entitled to relief under the high court's 2010 ruling.

But a federal appeals court rejected her request. It said the 2010 decision did not announce a new rule that would apply retroactively, but simply applied the existing standard for ineffective assistance of counsel to a new factual scenario.

The Supreme Court is expected to hear arguments in the case during its upcoming term that

begins in October, with a decision likely early next year.

The Supreme Court case is *Roselva Chaidez v. United States*, No. 11-820.

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