

THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Willie Weaver v. State of Florida

No. 3D25-0884 · No. No. 3D25-0884 · Decided July 30, 2025

OPINION

Willie Weaver v. State of Florida

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed July 30, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D25-0884 Lower Tribunal No. F13-5829 _____ Willie Weaver, Appellant, vs. State of Florida, Appellee. An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Ramiro Areces, Judge. Willie Weaver, in proper person. James Uthmeier, Attorney General, for appellee. Before MILLER, BOKOR and GOODEN, JJ. PER CURIAM. Appellant Willie Weaver appeals the trial court's summary denial of his motion for post-conviction relief filed under Florida Rule of Criminal Procedure 3.850. To affirm a trial court's summary denial, the claims must be either facially insufficient, conclusively refuted by the record, or procedurally barred. *Foster v. State*, 810 So. 2d 910, 914 (Fla. 2002). Finding all of Weaver's claims fit squarely in these three categories, we affirm. See *Suggs v. State*, 923 So. 2d 419, 429 (Fla. 2005) ("In order to prove ineffective assistance of counsel, a petitioner must demonstrate both that counsel's performance was deficient and that the deficiency caused prejudice."); see also *White v. State*, 964 So. 2d 1278, 1286 (Fla. 2007) ("A defendant cannot establish ineffective assistance of counsel based on counsel's failure to call a witness who is unavailable."); *Teffeteller v. Dugger*, 734 So. 2d 1009, 1023 (Fla. 1999) ("Trial counsel cannot be deemed ineffective for failing to raise meritless claims or claims that had no reasonable probability of affecting the outcome of the proceeding."); *Smith v. State*, 445 So. 2d 323, 325 (Fla. 1983) ("Issues which either were or could have been litigated at trial and upon direct appeal are not cognizable through collateral attack."); *Thompson v. State*, 88 So. 3d 312, 320 (Fla. 4th DCA 2012) ("To be entitled to an evidentiary hearing on this type of claim, the 2 movant must set forth clear and convincing circumstances that create a real, substantial and legitimate doubt as to competency."). Affirmed. 3