

THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Jimmie M. Evans v. The State of Florida

Evans · No. 3D24-1199 · Decided July 16, 2025

SUMMARY

The Third District Court of Appeal of Florida affirmed the denial of Jimmie M. Evans's post-conviction motion alleging ineffective assistance of counsel. The court cited authorities concerning claims that counsel failed to call witnesses and held that the record supported counsel's strategic decision.

CASE DETAILS

COURT	Third District Court of Appeal of Florida
WRITING FOR THE COURT	SCALES, C.J.; LINDSEY, J.; GORDO, J.
JURISDICTION	Third District Court of Appeal of Florida
DECIDED	July 16, 2025
DOCKET	3D24-1199
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a state post-conviction relief motion alleging ineffective assistance of counsel.
PRECEDENTIAL VALUE	published
PARTIES	Jimmie M. Evans v. The State of Florida

TOPICS

- post-conviction relief
- ineffective assistance
- right to counsel
- criminal procedure
- appellate procedure

PRACTICE AREAS

- criminal post-conviction relief
- ineffective assistance of counsel
- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

- Whether Evans was entitled to post-conviction relief or an evidentiary hearing on an ineffective-assistance claim based on counsel's failure to call a witness or witnesses.
- Whether the record conclusively refuted the claim because counsel's decision not to call the witnesses was a reasonable tactical or strategic decision.

HOLDINGS

1. An evidentiary hearing is not required when the record conclusively refutes the ineffective-assistance claim or the claim is otherwise procedurally barred.
2. A decision not to call certain defense witnesses ordinarily constitutes a matter of counsel's personal judgment and trial strategy, and does not establish ineffective assistance when the decision was a reasonable strategic choice.

KEY QUOTATIONS

“A defendant is entitled to an evidentiary hearing on a claim that counsel was ineffective for failing to call a witness to testify unless the motion is conclusively refuted by the record or is otherwise procedurally barred.”

(2)

“[S]trategic decisions do not constitute ineffective assistance of counsel if alternative courses have been considered and rejected and counsel’s decision was reasonable under the norms of professional conduct.” (2)

“A decision not to raise certain possible defenses or call certain defense witnesses is ordinarily a matter of personal judgment and strategy within the prerogatives of defense counsel.” (2)

FACTUAL BACKGROUND

The opinion concerns a post-conviction claim that defense counsel was ineffective for failing to call a witness or witnesses, apparently including alibi witnesses. The appellate court relied on the principle that counsel's decisions about defenses and defense witnesses are ordinarily matters of professional judgment and strategy, and that an evidentiary hearing is unnecessary when the record conclusively refutes the claim or the claim is procedurally barred.

PROCEDURAL HISTORY

Evans appealed to the Third District Court of Appeal from the Circuit Court for Miami-Dade County. The appellate court affirmed the lower court's disposition, concluding that the cited record and governing authorities supported denial of the ineffective-assistance claim.

DISPOSITION

affirmed

CASES CITED

- *Castro v. State*, 240 So. 3d 877, 878 (Fla. 5th DCA 2018)
- *Occhicone v. State*, 768 So. 2d 1037, 1048 (Fla. 2000)
- *Thomas v. State*, 121 So. 3d 71, 74 (Fla. 3d DCA 2013)
- *State v. Eby*, 342 So. 2d 1087, 1089 (Fla. 2d DCA 1977)
- *Brown v. State*, 907 So. 2d 612, 613 (Fla. 3d DCA 2005)

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