

THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Jimmie M. Evans v. The State of Florida

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

OPINION

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed July 16, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D24-1199 Lower Tribunal No. F11-16168 _____ Jimmie M. Evans, Appellant, vs. The State of Florida, Appellee. An Appeal from the Circuit Court for Miami-Dade County, Milton Hirsch, Judge.

Jimmie M. Evans, in proper person. James Uthmeier, Attorney General, and David Llanes, Assistant Attorney General, for appellee. Before SCALES, C.J., and LINDSEY and GORDO, JJ. PER CURIAM. Affirmed. See *Castro v. State*, 240 So. 3d 877, 878 (Fla. 5th DCA 2018) (“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.”); *Occhicone v. State*, 768 So.

2d 1037, 1048 (Fla. 2000) (“[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.”); *Thomas v. State*, 121 So. 3d 71, 74 (Fla. 3d DCA 2013) (“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.” (quoting *State v. Eby*, 342 So.

2d 1087, 1089 (Fla. 2d DCA 1977))); *Brown v. State*, 907 So. 2d 612, 613 (Fla. 3d DCA 2005) (“The record reflects that the failure of defense counsel to call the alibi witnesses was a tactical decision.... [A]s the record conclusively refutes the defendant’s claim that defense counsel provided ineffective assistance of counsel, we affirm the order denying the defendant’s motion for postconviction relief.”).