

Supreme Court of Florida

ORIGINAL

CORRECTED OPINION

No. 82,570

JUAN ROBERTO MELENDEZ,

Petitioner,

vs.

HARRY K. SINGLETARY, etc.,

Respondent.

[September 8, 1994]

SHAW, J.

Juan Roberto Melendez petitions this Court for writ of habeas corpus. We have jurisdiction. Art. V, § 3(b)(9), Fla. Const.

Melendez was convicted of first-degree murder and armed robbery for which he received a death sentence and a life sentence respectively. This Court affirmed the convictions and sentences. Melendez v. State, 498 So. 2d 1258 (Fla. 1986). We subsequently denied Melendez's appeal of the denial of his motion

for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. Melendez v. State, 612 So. 2d 1366 (Fla. 1992), cert. denied, 114 S. Ct. 349, 126 L.Ed.2d 313 (1993). Melendez then filed the present petition for writ of habeas corpus.

Melendez claims that his appellate counsel was ineffective for a number of reasons.¹ We find his claim to be without merit. We deny the petition.

It is so ordered.

GRIMES, C.J., and OVERTON, KOGAN, HARDING and WELLS, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

¹ Melendez claims that he was denied effective assistance of appellate counsel on the following issues: A) Melendez was prevented from cross-examining witnesses and prevented from introducing evidence necessary to prove his innocence; B) there is insufficient evidence to support the murder conviction; C) the death sentence is arbitrary in light of the fact that an alleged co-perpetrator was never charged; D) Melendez did not make a knowing and intelligent waiver of his right to present evidence in mitigation; E) the shifting of the burden of proof in the jury instructions at sentencing deprived Mr. Melendez of his rights; F) the death sentence rests upon an unconstitutional automatic aggravating circumstance.

Original Proceeding - Habeas Corpus

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for Petitioner

Robert A. Butterworth, Attorney General and Candance M. Sabella, Assistant Attorney General, Tampa, Florida,

for Respondent