

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2013

RODNEY MCGILL,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

No. 4D13-1002

[June 19, 2013]

PER CURIAM.

Petitioner Rodney McGill seeks a writ of habeas corpus claiming that appellate counsel was ineffective for failing to raise on direct appeal his pro se objection to the giving of Fla. Std. Jury Instr. (Crim.) 14.1 during his trial for first degree grand theft. *See* § 812.014(2)(a), Fla. Stat. (2007). Petitioner represented himself at trial, but was represented by the Public Defender on direct appeal; counsel for petitioner raised two issues, neither involving jury instructions, and this court affirmed per curiam. *See McGill v. State*, 98 So. 3d 581 (Fla. 4th DCA 2012).

We deny the writ because petitioner's complaint involves the failure to challenge a standard jury instruction not disapproved by the Florida Supreme Court. Under these circumstances, the failure of counsel to object at trial and/or pursue the matter on direct appeal does not constitute ineffective assistance of counsel. *See Lukehart v. State*, 70 So. 3d 503, 520-521 (Fla. 2011); *Rodriguez v. State*, 919 So. 2d 1252, 1272 (Fla. 2005).

Petition for writ of habeas corpus denied.

STEVENSON, GROSS and LEVINE, JJ., concur.

* * *

Petition alleging ineffective assistance of counsel to the Circuit Court for the Nineteenth Judicial Circuit, Martin County; Sherwood Bauer, Judge; L.T. Case No. 432009CF1233.

Rodney McGill, Monticello, pro se.

No appearance required for respondent.

Not final until disposition of timely filed motion for rehearing.