

Third District Court of Appeal

State of Florida, July Term, A.D. 2011

Opinion filed November 2, 2011.

Not final until disposition of timely filed motion for rehearing.

No. 3D08-2215

Lower Tribunal No. 05-28056

Jonas Claude,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Marisa Tinkler Mendez, Judge.

Andrew F. Rier, for appellant.

Pamela Jo Bondi, Attorney General, and Michael W. Mervine, Assistant Attorney General, for appellee.

Before WELLS, C.J., and SUAREZ and FERNANDEZ, JJ.

WELLS, Chief Judge.

Jonas Claude appeals from a second degree murder conviction claiming (1) that two witnesses impermissibly commented on his constitutional right to remain

silent; (2) that unduly prejudicial photographs of the murder victim were introduced into evidence; and, (3) that his trial attorney was ineffective for failing to file motions in limine to preclude testimony regarding prior unrelated criminal acts and to preclude introduction of various photographs.

We find no reversible error regarding the testimony adduced below concerning Claude's waiver of his Miranda¹ rights or the photographs introduced into evidence, and because we decline to address Claude's ineffective assistance of counsel claim, we affirm his conviction without prejudice to filing an appropriate post conviction motion challenging his trial counsel's performance.

Affirmed.

¹ Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).