

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 14-CIV-20061-WILLIAMS

LUIS GUSTAVO DEL VALLE,

Petitioner,

v.

FLORIDA DEPARTMENT OF
CORRECTIONS, *et al.*,

Respondents.

ORDER

THIS MATTER is before the Court on Magistrate Judge Jacqueline Becerra's Report and Recommendation ("Report") (DE 67) on Luis Gustavo Del Valle's ("Petitioner's" or "Mr. Del Valle's") Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2254 (the "Petition").¹ (DE 1.) No objections were filed to the Report, and the time to file objections has passed. See 11th Cir. R. 3-1; 28 U.S.C. § 636(b)(1)(C). The Report recommends the Court grant in part and deny in part the Petition. (DE 67 at 1, 51.) Upon a careful review of the Report, the Petition, and the record, it is **ORDERED AND ADJUDGED** that:

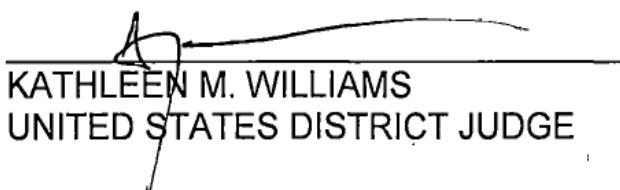
1. Judge Becerra's Report (DE 67) is **AFFIRMED AND ADOPTED**.
2. Mr. Del Valle's Petition (DE 1) is **GRANTED IN PART AND DENIED IN PART**. The Petition is granted as to the request for a new trial because Mr. Del Valle's constitutional right to remain silent was not scrupulously honored. See *Michigan v. Mosley*, 423 U.S. 96, 103–05 (1975); *United States v. Muhammad*, 196 F. App'x 882, 885–86 (11th Cir. 2006). Accordingly, Respondents are

¹ Petitioner also filed an Amended Petition (DE 35), which the Report concludes is procedurally defaulted. (DE 67 at 30.) Accordingly, only the Petition (DE 1) is considered.

ordered to conduct a new trial consistent with this Order and the Report. The Petition is denied as to the assertions of ineffective assistance of counsel.

3. The Clerk is ordered to **CLOSE** this case.

DONE AND ORDERED in Chambers in Miami, Florida, this 6th day of May, 2022.


KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE