

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

LADANIEL LEE,

Petitioner,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D13-1136

STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed July 5, 2013.

Petition for Writ of Habeas Corpus. Original jurisdiction.

Petitioner LaDaniel Lee, pro se.

Pamela Jo Bondi, Attorney General, and Giselle D. Lysten, Assistant Attorney General,
Tallahassee, for Respondent.

PER CURIAM.

LaDaniel Lee petitions this Court for relief due to ineffective assistance of appellate counsel. In the direct appeal following Lee's conviction for robbery with a weapon, his attorney failed to raise a meritorious, preserved argument as to which we granted his codefendant relief in Collier v. State, 38 Fla. L. Weekly D245 (Fla. 1st

DCA Jan. 31, 2013). In this case, the failure to raise the issue meets the deficiency prong of the Strickland¹ test. See Cupon v. State, 833 So. 2d 302, 304-05 (Fla. 1st DCA 2002). Further, the Collier opinion establishes that the result of Lee's appeal would have been different if the issue had been raised. The fairness and correctness of Lee's direct appeal has thus been undermined, such that he has established prejudice under Strickland. See id. Accordingly, we grant the petition, vacate Lee's judgment and sentence, and remand this case to the circuit court for further proceedings consistent with Collier.

PETITION GRANTED.

VAN NORTWICK, MARSTILLER, and RAY, CONCUR.

¹ Strickland v. Washington, 466 U.S. 668 (1984).