

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D17-3655

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MICHAEL J. MARTIN,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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Petition Alleging Ineffective Assistance of Appellate Counsel—  
Original Jurisdiction.

October 31, 2018

PER CURIAM.

DENIED.

OSTERHAUS and WINSOR, JJ., concur; WOLF, J., dissents with  
opinion.

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*Not final until disposition of any timely and  
authorized motion under Fla. R. App. P. 9.330 or  
9.331.*

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WOLF, J., dissenting.

I would grant the petition for ineffective assistance of appellate counsel. *See Andujar-Ruiz v. State*, 205 So. 3d 803 (Fla. 2d DCA 2016) (holding appellate counsel was ineffective for failing to argue trial court's instruction on duty to retreat constituted fundamental error).

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Michael J. Martin, pro se, Petitioner.

Pamela Jo Bondi, Attorney General, and Kaitlin Weiss, Assistant Attorney General, Tallahassee, for Respondent.