

IN THE SECOND DISTRICT COURT OF APPEAL, LAKELAND, FLORIDA

June 27, 2014

DENEAL BROWN, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 STATE OF FLORIDA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

Case No. 2D14-1166

BY ORDER OF THE COURT:

Petitioner's motion for rehearing, certification, and request that the court issue a written opinion is granted. The prior order dated April 16, 2014, is withdrawn, and the attached opinion is issued in its place.

I HEREBY CERTIFY THE FOREGOING IS A  
TRUE COPY OF THE ORIGINAL COURT ORDER.

JAMES BIRK HOLD, CLERK



that the victim was the aggressor, and the shooting was self-defense. The State disputed the presence of Mr. Brown's friend as well as Mr. Brown's argument that the shooting was self-defense. The State argued that Mr. Brown's act of shooting the victim in the torso demonstrated a depraved mind without regard for human life. The jury found Mr. Brown guilty as charged, and the trial court sentenced him to life in prison with a twenty-five-year mandatory minimum term in accordance with the jury's findings that he discharged a firearm during the commission of the offense and that the discharge caused the victim's death.

Because Mr. Brown was charged with second-degree murder and his intent was not disputed at trial, the only disputed issues the jury had to consider in deciding whether to find Mr. Brown guilty of second-degree murder or manslaughter were whether his friend shot the victim or, if not, whether Mr. Brown's actions were justified as self-defense. Based on the reasoning of Richards v. State, 128 So. 3d 959, 963-64 (Fla. 2d DCA 2013), we conclude that Mr. Brown is not entitled to relief.

Petition denied.

ALTENBERND, KELLY, and WALLACE, JJ., Concur.