

Third District Court of Appeal

State of Florida

Opinion filed December 21, 2016.
Not final until disposition of timely filed motion for rehearing.

No. 3D15-2492
Lower Tribunal No. 72-8754

Ricardo Miller,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Maria Elena Verde, Judge.

Ricardo Miller, in proper person.

Pamela Jo Bondi, Attorney General, and Linda S. Katz, Assistant Attorney General, for appellee.

Before SHEPHERD, LAGOA and FERNANDEZ, JJ.

ON MOTION FOR REHEARING

PER CURIAM.

This cause is before us on Ricardo Miller's Motion for Rehearing. We deny the motion for rehearing, but withdraw our May 4, 2016 opinion and substitute this opinion in its place.

Miller appeals the trial court's September 16, 2015 order denying his 3.850(b)(2) motion for post-conviction relief, arguing he is entitled to resentencing in conformance with chapter 2014-220, Laws of Florida, which has been codified in sections 775.082, 921.1401, and 921.1402, Florida Statutes. We reverse and remand.

Miller was found guilty of first-degree murder following a jury trial and in 1973 was sentenced to life in prison without parole. Miller claims he should be resentenced because he was a juvenile at the time he committed the crime. Based on our recent decision in Neely v. State, No. 3D14-1052 (Fla. 3d DCA Nov. 30, 2016), Miller is entitled to judicial review of his sentence.

We therefore reverse Miller's first-degree murder sentence and remand to the trial court for the appropriate resentencing under section 775.082(1)(b)(1), Florida Statutes (2016), section 921.1401, Florida Statutes (2014), and section 921.1402, Florida Statutes (2015).

Reversed and remanded with directions.