Third District Court of Appeal

State of Florida

Opinion filed July 15, 2020.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-0435
Lower Tribunal No. 12-9493

Sandor Eduardo Guillen,
Appellant,

vs.

State of Florida,
Appellee.

An appeal from the Circuit Court for Miami-Dade County, Ellen Sue Venzer, Judge.

Harley Gutin (Cocoa), for appellant.

Ashley Moody, Attorney General, and Magaly Rodriguez, Assistant Attorney General, for appellee.

Before FERNANDEZ, MILLER, and LOBREE, JJ.

MILLER, J.

A jury found appellant, Sandor Eduardo Guillen, guilty of one count of driving under the influence manslaughter with failure to render aid or give information. We affirmed his judgment and sentence on direct appeal. Guillen v. State, 189 So. 3d 1004 (Fla. 3d DCA 2016). Thereafter, alleging a myriad of ineffective assistance of counsel claims, Guillen sought to vacate his conviction. The lower tribunal conducted an evidentiary hearing and issued a well-developed order denying relief. The instant appeal ensued.

"Postconviction courts hold a superior vantage point with respect to questions of fact, evidentiary weight, and observations of the demeanor and credibility of witnesses." Ibar v. State, 190 So. 3d 1012, 1018 (Fla. 2016) (citation omitted). Unlike this court, "the trial judge is there and . . . see[s] and hear[s] the witnesses presenting the conflicting testimony. The cold record on appeal does not give appellate judges that type of perspective." State v. Spaziano, 692 So. 2d 174, 178 (Fla. 1997). Hence, "[i]n reviewing a trial court's ruling after an evidentiary hearing on an ineffective assistance of counsel claim," we defer "to the factual findings of the trial court to the extent that they are supported by competent, substantial evidence." Jennings v. State, 123 So. 3d 1101, 1113 (Fla. 2013) (quoting Mungin v. State, 932 So. 2d 986, 998 (Fla. 2006)).

Here, having carefully examined the record, we conclude the findings of the trial court are amply supported by competent, substantial evidence. Heedful of the

adage strategic choices "are virtually unchallengeable," Downs v. State, 453 So. 2d 1102, 1108 (Fla. 1984), and deferring to the credibility determinations below, the record is devoid of any showing that the conduct of counsel fell measurably outside the range of professionally acceptable performance, let alone that any alleged deficiencies "had an effect on the judgment of conviction." State v. Stirrup, 469 So. 2d 845, 848 (Fla. 3d DCA 1985) (citing Strickland v. Washington, 466 U.S. 668, 691, 104 S. Ct. 2052, 2066, 80 L. Ed. 2d 674 (1984)). Accordingly, we discern no error and affirm.

Affirmed.