

# Supreme Court of Florida

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Nos. 73,175 & 73,278

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JOHN RICHARD MAREK, Petitioner,

vs.

RICHARD L. DUGGER, etc.,  
Respondent.

JOHN RICHARD MAREK, Appellant,

vs.

STATE OF FLORIDA, Appellee.

[May 11, 1989]

PER CURIAM.

John Richard Marek appeals the denial of his Florida Rule of Criminal Procedure 3.850 motion to vacate judgment and sentence of death. He also petitions this Court for a writ of habeas corpus. We granted Marek a stay of execution from his first death warrant and ordered briefs on the issues. Marek v. Dugger, Nos. 73,175 & 73,278 (Fla. Nov. 8, 1988). We have jurisdiction. Art. V, § 3(b)(1), Fla. Const. We now affirm the lower court's denial of Marek's motion and deny his petition for habeas corpus relief.

This is Marek's first postconviction relief proceeding. We affirmed Marek's conviction and sentence on direct appeal. Marek v. State, 492 So. 2d 1055 (Fla. 1986). The detailed facts surrounding the crime are set forth in that opinion.

Marek raised twenty-two points in his rule 3.850 petition, each of which was individually ruled upon by the trial court

following a full evidentiary hearing. As to Marek's claim of counsel's ineffectiveness in his rule 3.850 petition, we find the dictates of Strickland v. Washington, 466 U.S. 668 (1984), were properly applied. The remaining claims were either raised or could have been raised previously and, thus, were properly denied on the basis of procedural default. We also find no basis for habeas corpus relief.

Accordingly, we affirm the trial court's denial of Marek's rule 3.850 motion and deny his petition for habeas corpus relief.

It is so ordered.

EHRlich, C.J., and OVERTON, McDONALD, SHAW, BARKETT, GRIMES  
and KOGAN, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF  
FILED, DETERMINED.

TWO CASES:

An Original Proceeding - Habeas Corpus

and An Appeal from the Circuit Court in and for Broward County,

Stanton S. Kaplan, Judge - Case No. 83-7088-CF10B

Larry Helm Spalding, Capital Collateral Representative and  
Martin J. McClain, Assistant CCR, Office of the Capital  
Collateral Representative, Tallahassee, Florida,

for Petitioner/Appellant

Robert A. Butterworth, Attorney General; and Carolyn V. McCann,  
Joy B. Shearer and Deborah Guller, Assistant Attorneys General,  
West Palm Beach, Florida,

for Respondent/Appellee