

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D17-3655

MICHAEL J. MARTIN,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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.

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

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).

Michael J. Martin, pro se, Petitioner.

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