

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 09-15613

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT OCTOBER 22, 2010 JOHN LEY CLERK

D. C. Docket No. 06-00507-CV-RS

GUERRY WAYNE HERTZ,

Petitioner-Appellant,

versus

WALTER A. MCNEIL,
CHARLES J. CRIST, JR.,

Respondents-Appellees.

Appeal from the United States District Court
for the Northern District of Florida

(October 22, 2010)

Before TJOFLAT, CARNES and MARCUS, Circuit Judges.

PER CURIAM:

The sole issue on which a certificate of appealability was granted in this capital case is whether the Florida Supreme Court's decision that Hertz was not denied effective assistance of counsel in regard to the presentation of mental health mitigating circumstances evidence at the penalty state, Hertz v. State, 941 So. 2d 1031, 1037-45 (Fla.2006), was contrary to or an unreasonable application of clearly established federal law, as determined by the Supreme Court of the United States, 28 U.S.C. ¶ 2254(d)(1).

In denying Hertz's petition for a writ of habeas corpus, the district court set out all of the facts relating to this issue, all of Hertz's arguments about it, and all of the reasons those arguments lack merit. See Hertz v. McNeil, No. 4:06cv507-RS, 2009 WL 3161813, at *15-31 (N.D. Fla. Sept. 25, 2009). Having read the briefs and the relevant parts of the record, and having listened to oral argument, we fully agree with the district court that the Florida Supreme Court's decision that Hertz's trial counsel provided reasonable professional assistance during the penalty stage of his capital trial is not contrary to or an unreasonable application of clearly established federal law.

The judgment of the district court is AFFIRMED.