

Supreme Court of Florida

FRIDAY, MARCH 23, 2018

CASE NO.: SC17-2022

Lower Tribunal No(s).:

161983CF008975AXXXMA

GREGORY ALAN KOKAL

vs. JULIE L. JONES, ETC.

Petitioner(s)

Respondent(s)

Petitioner Gregory Alan Kokal, a prisoner under a sentence of death, has filed a successive petition for writ of habeas corpus contending that he is entitled to a life sentence pursuant to *McCloud v. State*, 208 So. 3d 668 (Fla. 2016) (plurality opinion), because his codefendant pleaded guilty to second-degree murder and received a lesser sentence. Based upon *Jeffries v. State*, 222 So. 3d 538 (Fla. 2017) (plurality opinion), Kokal is not entitled to relief. *See id.* at 547 (noting that this Court has “historically refused to review the relative culpability of codefendants when a codefendant pleads guilty and receives a lesser sentence as a result”). Moreover, this claim is procedurally barred as it could have been raised on direct appeal. Further, Kokal presented a relative culpability argument in *Kokal v. State (Kokal II)*, 901 So. 2d 766 (Fla. 2005), and this claim is successive.

Finally, the jury specifically found that Kokal actually killed the victim. *Kokal v. State (Kokal I)*, 492 So. 2d 1317, 1319 (Fla. 1986). Additionally, during trial, “evidence was presented that Kokal had bloodstains consistent with the victim’s blood type on his shoes the morning after the murder. Further, Kokal’s fingerprints were on the murder weapon, Kokal had the victim’s driver’s license after the murder, and Kokal confessed to [a friend] that he had killed the victim.” *Kokal II*, 901 So. 2d at 776. Accordingly, Kokal is the more culpable party.

Based upon the foregoing, the petition is denied.

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

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON,
and LAWSON, JJ., concur.

CASE NO.: SC17-2022
Page Two

A True Copy

Test:



John A. Tomasino
Clerk, Supreme Court



cd

Served:

LINDA MCDERMOTT
JENNIFER ANN DONAHUE
HON. RONNIE FUSSELL, CLERK