16-6219 DAVILA V. DAVIS

DECISION BELOW: 650 Fed.Appx. 860

LOWER COURT CASE NUMBER: 15-70013

QUESTION PRESENTED:

1. DOES THE RULE ESTABLISHED IN *MARTINEZ V. RYAN* , 132 S.CT. 1309 (2012) AND *TREVINO V. THALER,* 133 S. CT. 1911, 1921 (2013), THAT INEFFECTIVE STATE HABEAS COUNSEL CAN BE SEEN AS CAUSE TO OVERCOME THE PROCEDURAL DEFAULT OF A SUBSTANTIAL INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL CLAIM, ALSO APPLY TO PROCEDURALLY DEFAULTED, BUT SUBSTANTIAL, INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL CLAIMS?

2. IN LIGHT OF *HURST V. FLORIDA*, 136 S. CT. 616, 622 (2016), MUST TEXAS' SECOND PUNISHMENT SPECIAL ISSUE, WHICH IS A NECESSARY FINDING FOR A SENTENCE OF DEATH, BE DECIDED BY THE JURY BEYOND A REASONABLE DOUBT?

LIMITED TO QUESTION 1 PRESENTED BY THE PETITION.

CERT. GRANTED 1/13/2017