

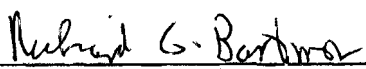
3. That Petitioner has not been prejudiced by the decision not to raise any issue on direct appeal, related to sentencing, since this Court, on direct appeal, independently reviewed the aggravating circumstances relied on by the trial court, in the exercise of its proportionality review (and, to Petitioner's benefit, held three of said circumstances invalid). Maxwell, supra, at 970-971.

4. That, due to the foregoing circumstances, Petitioner has wholly failed to demonstrate ineffective assistance of appellate counsel, according to the dictates of Strickland v. Washington, ___ U.S. ___, 104 So. Ct. 2052, 80 L. Ed. 2d 674 (1984). See Smith v. Wainwright, 9 FLW 442, 443-444 (Fla. Supreme Court, October 11, 1984).


WHEREFORE, Respondent respectfully requests that the Petition for Writ of Habeas Corpus be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Supplemental Response to Petition for Writ of Habeas Corpus has been furnished by United States Mail to STEVEN H. MALONE, ESQUIRE, 233 Third Street North, St. Petersburg, Florida, this 6th day of November, 1984.

Richard G. Barton
OF COUNSEL

Robert L. Smith
OF COUNSEL