

237 So.3d 919
Supreme Court of Florida.

Steven Edward STEIN, Appellant,

v.

STATE of Florida, Appellee.

No. SC17-1547

|

[January 31, 2018]

Synopsis

Background: Defendant whose sentence of death was affirmed on direct appeal, [632 So.2d 1361](#), filed a motion for collateral relief. The Circuit Court, Duval County, No. 161991CF001505AXXXMA, [Linda McCallum, J.](#), denied the motion. Defendant appealed.

[Holding:] The Supreme Court held that [Hurst v. State, 202 So.3d 40](#), which required a jury to unanimously find that aggravating factors were sufficient to impose death, did not apply retroactively to defendant's death sentence.


Affirmed.

[Pariente, J.](#), filed an opinion concurring in result.

[Lewis](#) and [Canady, JJ.](#), concurred in result.

West Headnotes (1)

[1] Courts

 [In general;retroactive or prospective operation](#)

Florida Supreme Court decision in [Hurst v. State, 202 So.3d 40](#), in which Court held that a jury to was required to unanimously find that aggravating factors were sufficient to impose death, did not apply retroactively to defendant's death sentence; defendant was sentenced to death following a jury's recommendation for death by a vote of ten to two, and his sentence became final

approximately 22 years before [Hurst](#) was issued.

Cases that cite this headnote

***920** An Appeal from the Circuit Court in and for Duval County, [Linda McCallum](#), Judge—Case No. 161991CF001505AXXXMA

Attorneys and Law Firms

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[Pamela Jo Bondi](#), Attorney General, and [Charmaine M. Millsaps](#), Senior Assistant Attorney General, Tallahassee, Florida, for Appellee

Opinion

PER CURIAM.

We have for review Steven Edward Stein's appeal of the circuit court's order denying Stein's motion filed pursuant to [Florida Rule of Criminal Procedure 3.851](#). This Court has jurisdiction. [See art. V, § 3\(b\)\(1\), Fla. Const.](#)

Stein's motion sought relief pursuant to the United States Supreme Court's decision in [Hurst v. Florida, — U.S. —, 136 S.Ct. 616, 193 L.Ed.2d 504 \(2016\)](#), and our decision on remand in [Hurst v. State \(Hurst\), 202 So.3d 40 \(Fla. 2016\)](#), [cert. denied, — U.S. —, 137 S.Ct. 2161, 198 L.Ed.2d 246 \(2017\)](#). This Court stayed Stein's appeal pending the disposition of [Hitchcock v. State, 226 So.3d 216 \(Fla. 2017\)](#), [cert. denied, — U.S. —, 138 S.Ct. 513, 199 L.Ed.2d 396 \(2017\)](#). After this Court decided [Hitchcock](#), Stein responded to this Court's order to show cause arguing why [Hitchcock](#) should not be dispositive in this case.

After reviewing Stein's response to the order to show cause, as well as the State's arguments in reply, we conclude that Stein is not entitled to relief. A jury convicted Stein of two counts of first-degree murder and recommended a sentence of death for both murders by a vote of ten to two. [Stein v. State, 632 So.2d 1361, 1364 \(Fla. 1994\)](#). Stein's sentences of death became final in 1994. [Stein v. Florida, 513 U.S. 834, 115 S.Ct. 111, 130 L.Ed.2d 58 \(1994\)](#). Thus, [Hurst](#) does not apply retroactively to

Stein's sentences of death. See [Hitchcock](#), 226 So.3d at 217. Accordingly, we affirm the denial of Stein's motion.

The Court having carefully considered all arguments raised by Stein, we caution that any rehearing motion containing reargument will be stricken. It is so ordered.

[LABARGA](#), C.J., and [QUINCE](#), [POLSTON](#), and [LAWSON](#), JJ., concur.

[PARIENTE](#), J., concurs in result with an opinion.

[LEWIS](#) and [CANADY](#), JJ., concur in result.

[PARIENTE](#), J., concurring in result.

I concur in result because I recognize that this Court's opinion in [Hitchcock v. State](#), 226 So.3d 216 (Fla. 2017), cert. denied, — U.S. —, 138 S.Ct. 513, 199 L.Ed.2d 396 (2017), is now final. However, I continue to adhere to the views expressed in my dissenting opinion in [Hitchcock](#).

All Citations

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