

238 So.3d 100
Supreme Court of Florida.

Chadwick WILLACY, Appellant,

v.

STATE of Florida, Appellee.

No. SC17–1605

|

[January 23, 2018]

Synopsis

Background: Defendant, whose sentence of death was affirmed on direct appeal, [696 So.2d 693](#), filed a motion for collateral relief. The Circuit Court, Brevard County, No. 051990CF016062AXXXXX, [William David Dugan, 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 eleven to one, and his sentence became final

approximately 19 years before [Hurst](#) was issued.

Cases that cite this headnote

***101** An Appeal from the Circuit Court in and for Brevard County, William David Dugan, Judge—Case No. 051990CF016062AXXXXX

Attorneys and Law Firms

[Linda McDermott](#) of McClain and McDermott, Wilton Manners, Florida, for Appellant

[Pamela Jo Bondi](#), Attorney General, and [Lisa Maria Lerner](#), Assistant Attorney General, West Palm Beach, Florida, for Appellee

Opinion

PER CURIAM.

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

Willacy'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 Willacy'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](#), Willacy responded to this Court's order to show cause arguing why [Hitchcock](#) should not be dispositive in this case.

After reviewing Willacy's response to the order to show cause, as well as the State's arguments in reply, we conclude that Willacy is not entitled to relief. Willacy was sentenced to death following a jury's recommendation for death by a vote of eleven to one. [Willacy v. State, 696 So.2d 693, 694 \(Fla. 1997\)](#). Willacy's sentence of death became final in 1997. [Willacy v. Florida, 522 U.S. 970, 118 S.Ct. 419, 139 L.Ed.2d 321 \(1997\)](#). Thus, [Hurst](#) does

not apply retroactively to Willacy's sentence of death. See [Hitchcock](#), 226 So.3d at 217. Accordingly, we affirm the denial of Willacy's motion.

The Court having carefully considered all arguments raised by Willacy, 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 *102, — 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

238 So.3d 100, 43 Fla. L. Weekly S24