

235 So.3d 279
Supreme Court of Florida.

Charles William FINNEY, Appellant,

v.

STATE of Florida, Appellee.

No. SC17-985

|

[January 26, 2018]

Synopsis

Background: Motion was filed for post-conviction relief following affirmance of death sentence, 660 So.2d 674. The Circuit Court, Hillsborough County, Michelle Sisco, J., No. 291991CF001611000AHC, denied motion. Movant appealed.


[Holding:] The Supreme Court held that Supreme Court's *Hurst*, 136 S.Ct. 616, decision invalidating capital sentencing scheme did not apply retroactively to conviction that became final in 1996.

Affirmed.

Pariente, J., concurred in result and filed statement.

Lewis and Canady, JJ., concur in result.

West Headnotes (1)

[1] Courts  In general;retroactive or prospective operation

United States Supreme Court's *Hurst*, 136 S.Ct. 616, decision invalidating capital sentencing scheme as violating Sixth Amendment did not apply retroactively to conviction that became final in 1996. (Per curiam with the Chief Justice and two justices concurring and three justices concurring in result.). U.S. Const. Amend. 6.

Cases that cite this headnote

An Appeal from the Circuit Court in and for Hillsborough County, Michelle Sisco, Judge—Case No. 291991CF001611000AHC

Attorneys and Law Firms

Neal Dupree, Capital Collateral Regional Counsel, Scott Gavin, and Suzanne Myers Keffer, Assistant Capital Collateral Regional Counsel, Southern Region, Fort Lauderdale, Florida, for Appellant

Pamela Jo Bondi, Attorney General, and Christina Z. Pacheco, Assistant Attorney General, Tampa, Florida, for Appellee

Opinion

PER CURIAM.

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

Finney'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 Finney'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, Finney responded to this Court's order to show cause arguing why Hitchcock should not be dispositive in this case.

After reviewing Finney's response to the order to show cause, as well as the State's arguments in reply, we conclude that Finney is not entitled to relief. Finney was *280 sentenced to death following a jury's recommendation for death by a vote of nine to three. Finney v. State, 660 So.2d 674, 679 (Fla. 1995). Finney's sentence of death became final in 1996. Finney v. Florida, 516 U.S. 1096, 116 S.Ct. 823, 133 L.Ed.2d 766 (1996). Thus, Hurst does not apply retroactively to Finney's sentence of death. See Hitchcock, 226 So.3d at 217. Accordingly, we affirm the denial of Finney's motion.

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

LABARGA, C.J., and POLSTON, and LAWSON, JJ., concur.

PARIENTE, J., concurs in result with an opinion.

LEWIS and CANADY, JJ., concur in result.

QUINCE, J., recused.

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

235 So.3d 279, 43 Fla. L. Weekly S43