

Supreme Court of Florida

No. SC17-1242

SAMUEL JASON DERRICK,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[February 2, 2018]

PER CURIAM.

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

Derrick's motion sought relief pursuant to the United States Supreme Court's decision in Hurst v. Florida, 136 S. Ct. 616 (2016), and our decision on remand in Hurst v. State (Hurst), 202 So. 3d 40 (Fla. 2016), cert. denied, 137 S. Ct. 2161 (2017). This Court stayed Derrick's appeal pending the disposition of Hitchcock v. State, 226 So. 3d 216 (Fla. 2017), cert. denied, 138 S. Ct. 513 (2017).

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

After reviewing Derrick's response to the order to show cause, as well as the State's arguments in reply, we conclude that Derrick is not entitled to relief.

Derrick was sentenced to death following a jury's recommendation for death by a vote of seven to five. Derrick v. State, 641 So. 2d 378, 379 (Fla. 1994). Derrick's sentence of death became final in 1995. Derrick v. Florida, 513 U.S. 1130 (1995). Thus, Hurst does not apply retroactively to Derrick's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Derrick's motion.

The Court having carefully considered all arguments raised by Derrick, 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, 138 S. Ct. 513 (2017), is now final. However, I continue to adhere to the views expressed in my dissenting opinion in Hitchcock.

An Appeal from the Circuit Court in and for Pasco County,
Stanley Richard Mills, Judge - Case No. 511987CF001775CFAXWS

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