

# **ATTACHMENT A**

2018 WL 579800  
Supreme Court of Florida.

Brandy Bain JENNINGS, Appellant,  
v.  
STATE of Florida, Appellee.

No. SC17-938  
|  
[January 29, 2018]

### Synopsis

**Background:** Motion was filed for post-conviction relief following affirmance of death sentence, 718 So.2d 144. The Circuit Court, Collier County, Frederick Robert Hardt, J., No. 111995CF002284AXXXXX, 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 death sentence that became final in 1999.

Affirmed.

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

Lewis and Canady, JJ., concurred in result.

An Appeal from the Circuit Court in and for Collier County, Frederick Robert Hardt, Judge—Case No. 111995CF002284AXXXXX

### Attorneys and Law Firms

Neal Dupree, Capital Collateral Regional Counsel, Bri Lacy, Staff Attorney, and Paul Kalil, Assistant Capital Collateral Regional Counsel, Southern Region, Ft. Lauderdale, Florida, for Appellant

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

### Opinion

PER CURIAM.

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

Jennings' 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 Jennings' appeal pending the disposition of Hitchcock v. State, 226 So.3d 216 (Fla. 2017), — U.S. —, 138 S.Ct. 513, 199 L.Ed.2d 396 (2017). After this Court decided Hitchcock, Jennings responded to this Court's order to show cause arguing why Hitchcock should not be dispositive in this case.

After reviewing Jennings' response to the order to show cause, as well as the State's arguments in reply, we conclude that Jennings is not entitled to relief. A jury convicted Jennings of three counts of first-degree murder and recommended a death sentence for each murder by a vote of ten to two. Jennings v. State, 718 So.2d 144, 147 (Fla. 1998). Following the jury's recommendations, the trial court sentenced Jennings to death on all three counts of murder. Id. Jennings' sentences of death became final in 1999. Jennings v. Florida, 527 U.S. 1042, 119 S.Ct. 2407, 144 L.Ed.2d 805 (1999). Thus, Hurst does not apply retroactively to Jennings' sentences of death. See Hitchcock, 226 So.3d at 217. Accordingly, we affirm the denial of Jennings' motion.

The Court having carefully considered all arguments raised by Jennings, 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

--- So.3d ----, 2018 WL 579800, 43 Fla. L. Weekly S46