

DOCKET NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2017

BRUCE DOUGLAS PACE,
Petitioner

vs.

STATE OF FLORIDA,
Respondent.

APPENDIX TO
PETITION FOR WRIT OF CERTIORARI

INDEX TO APPENDICES

APPENDIX A

Florida Supreme Court opinion affirming the denial of postconviction relief, reported as *Pace v. State*, 237 So.3d 912 (2018).

APPENDIX B

Trial court's Final Order Denying Defendant's Successive Motion For Postconviction Relief, referenced as *State v. Pace*, Order, Case No. 1988-CF-0689 (Fla. 1st Jud. Cir. Mar. 22, 2017).

APPENDIX A

237 So.3d 912
Supreme Court of Florida.

Bruce Douglas PACE, Appellant,
v.
STATE of Florida, Appellee.

No. SC17-1021

|

[January 30, 2018]

Synopsis

Background: Defendant who had been sentenced to death filed a motion for collateral relief. The Circuit Court, Santa Rosa County, No. 571988CF000689XXAXMX, David H. Rimmer, 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.

***913** An Appeal from the Circuit Court in and for Santa Rosa County,

David H. Rimmer, Judge—Case No. 571988CF000689XXAXMX

Attorneys and Law Firms

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

Pamela Jo Bondi, Attorney General, and Lisa A. Hopkins, Assistant Attorney General, Tallahassee, Florida, for Appellee

Opinion

PER CURIAM.

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

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

After reviewing Pace's response to the order to show cause, as well as the State's arguments in reply, we conclude that Pace is not entitled to relief. Pace was sentenced to death following a jury's recommendation for death by a vote of seven to five. See Pace v. State, 596 So.2d 1034, 1035 (Fla. 1992).¹ His sentence of death became final in 1992. Pace v. Florida, 506 U.S. 885, 113 S.Ct. 244, 121 L.Ed.2d 178 (1992). Thus, Hurst does not apply retroactively to Pace's sentence of death. See Hitchcock, 226 So.3d at 217. Accordingly, we affirm the denial of Pace's motion.

The Court having carefully considered all arguments raised by Pace, 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, *914 I continue to adhere to the views expressed in my dissenting opinion in Hitchcock.

All Citations

237 So.3d 912, 43 Fla. L. Weekly S50

Footnotes

- 1 While the jury's vote to recommend a sentence of death is not reflected in this Court's opinion on direct appeal, this Court's opinion addressing Pace's initial postconviction appeal and separate petition for a writ of habeas corpus states that the jury voted seven to five to recommend a sentence of death. Pace v. State, 854 So.2d 167, 170 (Fla. 2003).

APPENDIX B

DONALD C. SPENCER
CLERK OF COURTS &
COMPTROLLER

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY, FLORIDA

STATE OF FLORIDA, 2017 MAR 21 AM 8 35
Plaintiff, SANTA ROSA COUNTY, FL
FEL FILED

v.

Case No: 1988-CF-0689

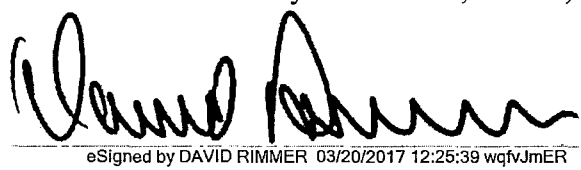
BRUCE DOUGLAS PACE,
Defendant.

**ORDER DENYING DEFENDANT'S
SUCCESSIVE MOTION FOR POSTCONVICTION RELIEF**

THIS CAUSE is before the Court on Defendant's Successive Motion to Vacate Judgments of Conviction and Sentence filed by and through counsel on January 12, 2017, pursuant to Florida Rule of Criminal Procedure 3.851. Having considered Defendant's motion, the State's answer, the arguments presented at the case management conference, the record, and applicable law, the Court finds that Defendant's motion should be denied. Because his sentence became final in 1992, Defendant is not entitled to relief under *Hurst v. Florida*, 136 S. Ct. 616 (2016), or *Hurst v. State*, 202 So. 3d 40 (Fla. 2016). See *Pace v. State*, 596 So. 2d 1034 (Fla. 1992), *cert. denied*, 506 U.S. 885 (1992); *Asay v. State*, 2016 WL 7406538 at *13 (Fla. 2016) (holding that *Hurst v. Florida* and *Hurst v. State* do not apply retroactively to cases that became final before the United States Supreme Court decided *Ring v. Arizona*, 536 U.S. 584 (2002)).

Accordingly, it is **ORDERED AND ADJUDGED** that Defendant's Successive Motion to Vacate Judgments of Conviction and Sentence is **DENIED**. Defendant has the right to appeal within 30 days of the rendition of this order.

DONE AND ORDERED in Chambers at the Santa Rosa County Courthouse, Milton,
Florida.



eSigned by DAVID RIMMER 03/20/2017 12:25:39 wqfvJmER

DAVID RIMMER
CIRCUIT JUDGE

DR/cl

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing Order Denying Defendant's Successive Motion for Postconviction Relief was furnished by E-service (unless otherwise indicated) to:

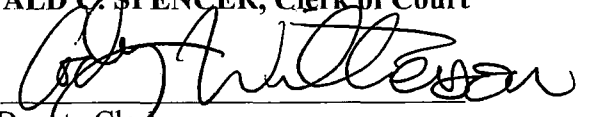
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this 22nd day of March, 2017.

DONALD C. SPENCER, Clerk of Court

BY: 
Deputy Clerk