

236 So.3d 235
Supreme Court of Florida.

Norberto PIETRI, Appellant,
v.
STATE of Florida, Appellee.

No. SC17-1281
|
[February 2, 2018]

Synopsis

Background: After affirmance of defendant's murder conviction and death sentence, [644 So.2d 1347](#), defendant filed a motion for collateral relief. The Circuit Court, Palm Beach County, No. 501988CF011366AXXXMB, [John S. Kastrenakes](#), 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.

***236** An Appeal from the Circuit Court in and for Palm Beach County, [John S. Kastrenakes](#), Judge—Case No. 501988CF011366AXXXMB

Attorneys and Law Firms

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[Pamela Jo Bondi](#), Attorney General, Tallahassee, Florida, and [Leslie T. Campbell](#), Senior Assistant Attorney General, West Palm Beach, Florida, for Appellee

Opinion

PER CURIAM.

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

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

After reviewing Pietri's response to the order to show cause, as well as the State's arguments in reply, we conclude that Pietri is not entitled to relief. Pietri was sentenced to death following a jury's recommendation for death by a vote of eight to four. [Pietri v. State](#), [644 So.2d 1347](#), [1349](#) (Fla. 1994). Pietri's sentence of death became final in 1995. [Pietri v. Florida](#), [515 U.S. 1147](#), [115 S.Ct. 2588](#), [132 L.Ed.2d 836](#) (1995). Thus, [Hurst](#) does not apply retroactively to Pietri's sentence of death. See [Hitchcock](#), [226 So.3d](#) at 217. Accordingly, we affirm the denial of Pietri's motion.

The Court having carefully considered all arguments raised by Pietri, 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, *237 — 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

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