

DOCKET NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2017

MANUEL RODRIGUEZ,

Petitioner,

vs.

**STATE OF FLORIDA,
Respondent.**

**APPLICATION FOR A SIXTY DAY EXTENSION OF TIME
IN WHICH TO FILE PETITION FOR WRIT OF CERTIORARI TO
THE FLORIDA SUPREME COURT**

CAPITAL CASE

To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit:

Petitioner, Manuel Rodriguez, by and through undersigned counsel, and pursuant to 28 U.S.C. § 2101(d) and Rule 13-5 of this Court, respectfully requests an extension of time of sixty (60) days to file a petition for writ of certiorari to the Florida Supreme Court.

In support of his request, Mr. Rodriguez states as follows:

1. Mr. Rodriguez is a death-sentenced inmate in the custody of the State of Florida. Undersigned counsel represents Mr. Rodriguez in his State collateral appeals.
2. This case involves an appeal from the decision of the Florida Supreme Court denying Mr. Rodriguez's successive Motion for Post-Conviction Relief pursuant to Florida Rule of Criminal Procedure 3.851.
3. This Court's jurisdiction rests on 28 U.S.C. § 1257(a).
4. Mr. Rodriguez was convicted of murder and sentenced to death in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.
5. On January 31, 2018, the Florida Supreme Court denied Mr. Rodriguez's appeal of the denial of his successive motion for post-conviction relief. (Attachment A).
6. Mr. Rodriguez timely filed a petition for rehearing with the Florida Supreme Court, which was struck February 26, 2018. (Attachment B).
7. Mr. Rodriguez's time to petition for certiorari in this Court expires on May 1, 2018. This application for a sixty (60) day extension is being filed more than ten (10) days before that date.
8. Undersigned counsel shows the following good cause in support of this request.

9. Mr. Rodriguez's counsel is a part-time Assistant CCRC at Capital Collateral Regional Counsel-South (CCRC-South), a Florida state agency charged with the responsibility of representing indigent death row inmates. As Assistant CCRC, undersigned counsel is responsible for the oversight of her own case load at CCRC-South as well as oversight of her own independent client case load outside of the office.
10. Petitioner's counsel has had an exceptionally burdensome caseload since the final disposition of Petitioner's case at the Florida Supreme Court. Counsel represents a capital defendant whose case – which was expected to last approximately four weeks- was set for jury trial on February 19, 2018. After seven days of jury qualification, the trial court sua sponte struck the panel and ordered the parties to return on March 26, 2018 to pick a new jury. Petitioner's counsel was involved in extensive litigation regarding that case, including filing a 465-page (inclusive of exhibits) emergency petition with the state mid-level appellate court on March 15, 2018, addressing issues with the trial court and seeking to move the March 26, 2018 court date. The case is now scheduled to be tried in September.
11. Additionally, trial counsel has two direct appeal briefs due within the next week in non-capital cases, another brief due in a capital case

regarding an appeal of the denial of DNA testing, a case management conference in another capital case set for the following week, and court hearings on other cases.

12. Given undersigned counsel's extensive duties as an Assistant CCRC, as well as her other responsibilities, counsel has not been able to prepare a proper petition for writ of certiorari in Mr. Rodriguez's case. If the sixty (60) day extension of time is granted, counsel's intention is to file a petition for certiorari on or before July 2, 2018.

13. Undersigned counsel has contacted the Office of the Attorney General who has consented to the filing of this Motion.

Wherefore, Mr. Rodriguez respectfully requests that an order be entered extending his time within which to file his petition for certiorari to and including July 2, 2018.

Respectfully submitted,

/s/ William M. Hennis III

Florida Bar No. 0066850

Litigation Director

for

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**Counsel of record for Mr. Rodriguez*

ATTACHMENT A

2018 WL 635986
Supreme Court of Florida.

Manuel Antonio RODRIGUEZ, Appellant,
v.
STATE of Florida, Appellee.

No. SC17-1268
|
[January 31, 2018]

Synopsis

Background: Defendant, whose sentence of death was affirmed on direct appeal, [753 So.2d 29](#), filed a motion for collateral relief. The Circuit Court, Dade County, No. 131993CF025817B000XX, [Nushin G. Sayfie, 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.

An Appeal from the Circuit Court in and for Dade County, [Nushin G. Sayfie](#), Judge—Case No. 131993CF025817B000XX

Attorneys and Law Firms

[Neal Dupree](#), Capital Collateral Regional Counsel, Marta Jaszczolt, Staff Attorney, and [Marie-Louise Samuels Parmer](#), Special Assistant Capital Collateral Regional Counsel, Southern Region, Fort Lauderdale, Florida, for Appellant

[Pamela Jo Bondi](#), Attorney General, Tallahassee, Florida, and [Melissa J. Roca](#), Assistant Attorney General, Miami, Florida, for Appellee

Opinion

PER CURIAM.

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

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

After reviewing Rodriguez's response to the order to show cause, as well as the State's arguments in reply, we conclude that Rodriguez is not entitled to relief. A jury convicted Rodriguez of three counts of first-degree murder, and the trial court sentenced Rodriguez to death on each count after the jury unanimously recommended a sentence of death for each count. [Rodriguez v. State, 753 So.2d 29, 35 \(Fla. 2000\)](#). Rodriguez's sentences of death became final in 2000. [Rodriguez v. Florida, 531 U.S. 859, 121 S.Ct. 145, 148 L.Ed.2d 96 \(2000\)](#). Thus, [Hurst](#) does not apply retroactively to Rodriguez's sentences of death. [See Hitchcock, 226 So.3d at 217](#). Accordingly, we affirm the denial of Rodriguez's motion.

The Court having carefully considered all arguments raised by Rodriguez, 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, — L.Ed.2d

— (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 635986, 43 Fla. L. Weekly S53

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ATTACHMENT B

Supreme Court of Florida

MONDAY, FEBRUARY 26, 2018

CASE NO.: SC17-1268
Lower Tribunal No(s):
131993CF025817B000XX

MANUEL ANTONIO RODRIGUEZ vs. STATE OF FLORIDA

Appellant(s)

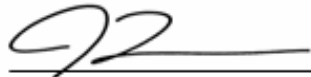
Appellee(s)

Appellant's Motion for Rehearing is hereby stricken.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON,
and LAWSON, JJ., concur.

A True Copy

Test:



John A. Tomasino
Clerk, Supreme Court



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Served:

MARIE-LOUISE SAMUELS PARMER
MELISSA J. ROCA
MARTA JASZCZOLT