

DOCKET NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2018

**CHARLES FINNEY,
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, Charles Finney, by and through undersigned counsel, and pursuant to 28 U.S.C. § 2101(d) and Rules 13.5 and 30.2 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, to and including May 27, 2019. Mr. Finney is a death-sentenced inmate in the custody of the State of Florida. This

Court has jurisdiction to review the decision of the Florida Supreme Court under 28 U.S.C. § 1257(a).

Mr. Finney was convicted of one count of murder and sentenced to death in the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida. This case involves the decision of the Florida Supreme Court entered on December 28, 2018, denying Mr. Finney's Response Appeal of the denial of postconviction relief, including his claim that his sentences of death are unconstitutional in light of Chapter 2017-1 Fla. Stat. *See Finney v. State*, 260 So. 3d 331 (Fla. 2018). (Attachment A).

Mr. Finney's time to petition for certiorari in this Court regarding the Florida Supreme Court's denial of relief expires on March 28, 2019. This application for a sixty (60) day extension is being filed more than ten (10) days before that date. Undersigned counsel shows the following good cause in support of this request.

Mr. Finney's counsel is Chief 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 Chief Assistant CCRC, undersigned counsel is responsible for the oversight of her own case load at CCRC-South as well her administrative role overseeing the day-to-day of the office. Additionally, as Chief Assistant undersigned counsel is responsible for the oversight and leadership of the office-wide case load of CCRC-South as well as the

direction and supervision of staff members within the office. Counsel's workload has not permitted sufficient time to prepare an effective petition for writ of certiorari in Petitioner's case. Given undersigned counsel's extensive duties as Chief Assistant CCRC, as well as her responsibilities in her own individual cases, counsel has not been able to prepare a proper petition for writ of certiorari in Mr. Finney's case. If the sixty (60) day extension of time is provided, counsel's intention is to file a petition for certiorari on or before May 27, 2019.

Wherefore, Mr. Finney respectfully requests that an order be entered extending his time to petition for certiorari to and including May 27th, 2019.

Respectfully submitted,

/s/ Suzanne Keffer
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CERTIFICATE OF SERVICE

I, Suzanne Keffer, counsel for petitioner and a member of the Bar of this Court, certify that I mailed a copy of this application to Assistant Attorney General Christine Z. Pacheco at the Office of the Attorney General, Concourse Center 4, 3507 E. Frontage Rd, Ste. 200, Tampa, FL 33607 on March 15, 2019. I further certify that all parties required to be served have been served.

/s/ Suzanne Keffer
SUZANNE KEFFER
Chief Assistant CCRC
Florida Bar No. 150177

ATTACHMENT A

Supreme Court of Florida

No. SC18-1495

CHARLES WILLIAM FINNEY,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

December 28, 2018

PER CURIAM.

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

Finney'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). Finney responded to this Court's order to show cause arguing why *Hitchcock v. State*, 226 So. 3d 216 (Fla.), *cert. denied*, 138 S. Ct. 513 (2017), and

Finney v. State, 235 So. 3d 279 (Fla.), *cert. denied*, 139 S. Ct. 197 (2018), should not be dispositive in this case.

After reviewing Finney’s response to the order to show cause, as well as the State’s arguments in reply, we conclude that our prior denial of Finney’s postconviction appeal raising similar claims is a procedural bar to the claim at issue in this appeal, which in any event, does not entitle him to *Hurst* relief. *See Finney*, 235 So. 3d at 279-80; *Hitchcock*, 226 So. 3d at 217; *see also Foster v. State*, No. SC18-860, 2018 WL 6379348, at *2-4 (Fla. Dec. 6, 2018) (explaining why the “elements of ‘capital first-degree murder’ ” argument derived from *Hurst* and the legislation implementing *Hurst* “has no merit”). Accordingly, we affirm the denial of Finney’s motion.

It is so ordered.

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

NO MOTION FOR REHEARING WILL BE ALLOWED.

An Appeal from the Circuit Court in and for Hillsborough County,
Michelle Sisco, Judge - Case No. 291991CF001611000AHC

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Assistant Capital Collateral Regional Counsel, and Scott Gavin, Staff Attorney,
Southern Region, Fort Lauderdale, Florida,

for Appellant

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

for Appellee