

Supreme Court of Florida

No. SC17-587

RONALD WAYNE CLARK, JR.,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[January 23, 2018]

PER CURIAM.

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

Clark'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). This Court stayed Clark's appeal pending the disposition of Hitchcock v. State, 226 So. 3d 216 (Fla. 2017), cert. denied, 138 S. Ct. 513 (2017). After this

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

After reviewing Clark's response to the order to show cause, as well as the State's arguments in reply, we conclude that Clark is not entitled to relief. Clark was sentenced to death following a jury's recommendation for death by a vote of eleven to one. Clark v. State, 613 So. 2d 412, 413 (Fla. 1992).¹ Clark's sentence of death became final in 1993. Clark v. Florida, 510 U.S. 836 (1993). Thus, Hurst does not apply retroactively to Clark's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Clark's motion.

The Court having carefully considered all arguments raised by Clark, 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, 138 S. Ct. 513 (2017), is now

1. Although our decision affirming Clark's death sentence does not specify the number of Clark's jurors who voted to recommend death, our decision affirming the denial of his initial motion for postconviction relief states that "[t]he jury voted eleven to one to recommend death." Clark v. State, 35 So. 3d 880, 884 (Fla. 2010).

final. However, I continue to adhere to the views expressed in my dissenting opinion in Hitchcock.

An Appeal from the Circuit Court in and for Duval County,
Russell L. Healey, Judge - Case No. 161990CF010067AXXXMA

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