

238 So.3d 99

Supreme Court of Florida.

Ronald Wayne CLARK, Jr., Appellant,

v.

STATE of Florida, Appellee.

No. SC17-587

|

[January 23, 2018]

Synopsis

Background: Defendant who had been sentenced to death filed a motion for collateral relief. The Circuit Court, Duval County, No. 161990CF010067AXXXMA, [Russell L. Healey](#), 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.

West Headnotes (1)

[1] Courts

 In general;retroactive or prospective operation

Florida Supreme Court decision in [Hurst v. State](#), 202 So. 3d 40, in which Court held that a jury to was required to unanimously find that aggravating factors were sufficient to impose death, did not apply retroactively to defendant's death sentence; defendant was sentenced to death following a jury's recommendation for death by a vote of eleven to one, and his sentence became final approximately 23 years before *Hurst* was issued.

Cases that cite this headnote

An Appeal from the Circuit Court in and for Duval County, [Russell L. Healey](#), Judge—Case No. 161990CF010067AXXXMA

Attorneys and Law Firms

[Linda McDermott](#) of McClain and McDermott, Wilton Manners, Florida, for Appellant

[Pamela Jo Bondi](#), Attorney General, and Jennifer Ann Donahue, Assistant Attorney General, Tallahassee, Florida, for Appellee

Opinion

PER CURIAM.

We have for review Ronald Wayne Clark, Jr.'s appeal of the circuit court's *100 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](#), — 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 Clark'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](#), 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, 114 S.Ct. 114, 126 L.Ed.2d 79 (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.

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).

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, — 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

238 So.3d 99, 43 Fla. L. Weekly S25