

236 So.3d 241
Supreme Court of Florida.

George Michael HODGES, Appellant,

v.

STATE of Florida, Appellee.

No. SC17-1586

|

[February 2, 2018]

Synopsis

Background: After affirmance of defendant's murder conviction and death sentence, [619 So.2d 272](#), defendant filed a motion for collateral relief. The Circuit Court, Hillsborough County, No. 291989CF002165000AHC, [Michelle Sisco](#), 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 ten to two, 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 Hillsborough County, [Michelle Sisco](#), Judge—Case No. 291989CF002165000AHC

Attorneys and Law Firms

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Opinion

PER CURIAM.

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

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

After reviewing Hodges's response to the order to show cause, as well as the State's arguments in reply, we conclude that Hodges is not entitled to relief. Hodges was sentenced to death following a jury's recommendation for death by a vote of ten to two. *See Hodges v. State*, [619 So.2d 272](#) (Fla. 1993); [Hodges v. State](#), [595 So.2d 929, 931](#) (Fla. 1992).¹ Hodges's sentence of death became final in 1993. [Hodges v. Florida](#), 510 U.S. 996, 114

S.Ct. 560, 126 L.Ed.2d 460 (1993). Thus, [Hurst](#) does not apply retroactively to Hodges's sentence of death. See [Hitchcock](#), 226 So.3d at 217. Accordingly, we affirm the denial of Hodges's motion.

¹ While the jury's vote recommending a sentence of death is not reflected in this Court's opinion on direct appeal, this Court stated in its opinion affirming the circuit court's denial of Hodges's postconviction motion and denying Hodges's petition for a writ of habeas corpus that the jury recommended a sentence of death by a vote of ten to two. [Hodges v. State](#), 885 So.2d 338, 357 (Fla. 2004).

The Court having carefully considered all arguments raised by Hodges, 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

236 So.3d 241, 44 Fla. L. Weekly S77