

DOCKET NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2017

ALVIN LEROY MORTON,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

**APPLICATION FOR SIXTY (60) DAY EXTENSION OF TIME IN WHICH TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE FLORIDA SUPREME COURT**

COMES NOW THE PETITIONER, ALVIN LEROY MORTON, by and through undersigned counsel, and pursuant to Supreme Court Rule 13-5, and respectfully requests an extension of time of sixty (60) days within which to file his Petition for Writ of Certiorari to the Florida Supreme Court. In support of his request, Petitioner, through counsel, states as follows:

1. Petitioner is an indigent death-sentenced inmate in the custody of the State of Florida. Undersigned counsel represents Petitioner in his state collateral appeals. Undersigned counsel also was appointed to represent Mr. Morton in the United States District Court and the United States Court of Appeals for the Eleventh Circuit pursuant to the Criminal Justice Act (18 U.S.C. § 3006A).

2. This case involves an appeal from the decision of the Florida Supreme Court denying Mr. Morton'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.
4. Petitioner was convicted of murder and sentenced to death in the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida.
5. On February 2, 2018, the Florida Supreme Court denied Mr. Morton's appeal of the denial of his successive motion for post-conviction relief. (Attachment A). A timely motion for rehearing was filed and stricken on February 26, 2018. (Attachment B). Petitioner's time to petition for certiorari in this Court expires on May 3, 2018.
6. Petitioner shows the following good cause in support of this request.
7. Petitioner's counsel, who is employed by a state agency, has had a burdensome caseload since the final disposition of Petitioner's case in the Florida Supreme Court. Within the last 90 days, counsel has, *inter alia*, conducted a public records hearing on an initial post-conviction motion and prepared supplemental briefing in the Florida Supreme Court on "non-*Hurst* issues." Further, counsel is preparing the appeal from an initial post-conviction motion and record on appeal is over 10,000 pages. Finally, undersigned counsel will not be in the country on a preplanned trip through the beginning of April. As a result of all of the above, counsel has not been able to prepare a proper petition for a writ of certiorari in Petitioner's case.

WHEREFORE, Petitioner, through his undersigned counsel, respectfully requests an extension of time of sixty (60) days within which to file the Petition for Writ of Certiorari to the Florida Supreme Court in the above-styled case.

fw 

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Lead Attorney for Petitioner*

I HEREBY CERTIFY that a true copy of the foregoing motion has been furnished to the Supreme Court of the United States via electronic service and UPS and furnished by United States Mail, first class postage prepaid, to all counsel of record on March 20, 2018.

fw 

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Raiford, FL 32026-4430

EXHIBIT A

Supreme Court of Florida

No. SC17-1715

ALVIN LEROY MORTON,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[February 2, 2018]

PER CURIAM.

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

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

After reviewing Morton's response to the order to show cause, as well as the State's arguments in reply, we conclude that Morton is not entitled to relief.

Morton was convicted of two counts of first-degree murder. Morton v. State, 789 So. 2d 324, 327 (Fla. 2001). Following a jury's recommendation for death by a vote of eleven to one on both counts, the trial court sentenced Morton to death on both counts, and his sentences became final in 2001. Id. at 328. Thus, Hurst does not apply retroactively to Morton's sentences of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Morton's motion.

The Court having carefully considered all arguments raised by Morton, 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 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 Pasco County,
William Robert Webb, Senior Judge - Case No. 511992CF000308CFAXWS

James Vincent Viggiano, Jr., Capital Collateral Regional Counsel, Julissa R.
Fontán, Maria E. DeLiberato and Chelsea Shirley, Assistant Capital Collateral
Regional Counsel, Middle Region, Temple Terrace, Florida,

for Appellant

Pamela Jo Bondi, Attorney General, Tallahassee, Florida, and Scott A. Browne,
Senior Assistant Attorney General, Tampa, Florida,

for Appellee

EXHIBIT B

Supreme Court of Florida

MONDAY, FEBRUARY 26, 2018

CASE NO.: SC17-1715

Lower Tribunal No(s).:
511992CF000308CFAXWS

ALVIN LEROY MORTON

vs.

STATE OF FLORIDA

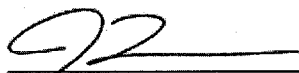
Appellant(s)

Appellee(s)

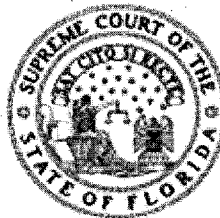
Appellant's Motion for Rehearing is hereby stricken.

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

A True Copy
Test:



John A. Tomasino
Clerk, Supreme Court



jat
Served:

JULISSA FONTÁN
MARIA E. DELIBERATO
CHELSEA RAE SHIRLEY
SCOTT A. BROWNE