

DOCKET No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JOHN CHRISTOPHER MARQUARD,

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 SUPREME COURT OF FLORIDA ADDRESSED
TO JUSTICE CLARENCE THOMAS

ATTACHMENT A

Marquard v. State, NO. (Fla. January 24, 2018)

234 So.3d 560
Supreme Court of Florida.

John Christopher MARQUARD, Appellant,

v.

STATE of Florida, Appellee.

No.

SC17

—

862

[January 24, 2018]

Synopsis

Background: Defendant who had been sentenced to death filed a motion for collateral relief. The Circuit Court, St. Johns County, No. 551991CF002418XXAXMX, [Howard Mason Maltz](#), 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

unanimous recommendation for death, and his sentence became final approximately 21 years before *Hurst* was issued.

Cases that cite this headnote

***561** An Appeal from the Circuit Court in and for St. Johns County, [Howard Mason Maltz](#), Judge—Case No. 551991CF002418XXAXMX

Attorneys and Law Firms

James Vigianno, Capital Collateral Regional Counsel, Adriana Corso, and Ali Andrew Shakoor, Assistant Capital Collateral Regional Counsel, Temple Terrace, Florida, for Appellant

[Pamela Jo Bondi](#), Attorney General, and [Leslie T. Campbell](#), Assistant Attorney General, West Palm Beach, Florida, for Appellee

Opinion

PER CURIAM.

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

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

After reviewing Marquard's response to the order to show cause, as well as the State's arguments in reply, we conclude that Marquard is not entitled to relief. Marquard was sentenced to death following a jury's unanimous recommendation for death. [Marquard v. State](#), 641 So.2d

54, 56 (Fla. 1994). Marquard's sentence of death became final in 1995. [Marquard v. Florida](#), 513 U.S. 1132, 115 S.Ct. 946, 130 L.Ed.2d 890 (1995). Thus, [Hurst](#) does not apply retroactively to Marquard's sentence of death. See [Hitchcock](#), 226 So.3d at 217. Accordingly, we affirm the denial of Marquard's motion.

The Court having carefully considered all arguments raised by Marquard, 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, *562 I continue to adhere to the views expressed in my dissenting opinion in [Hitchcock](#).

All Citations

234 So.3d 560, 43 Fla. L. Weekly S27