

Supreme Court of Florida

No. SC17-1075

KENNETH LOUIS DESSAURE,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[November 16, 2017]

PER CURIAM.

We hereby affirm the trial court’s denial of Kenneth Louis Dessaure’s successive motion for postconviction relief. See Mullens v. State, 197 So. 3d 16, 40 (Fla. 2016) (determining that defendant who validly waived penalty phase jury was not entitled to relief under Hurst because a defendant “cannot subvert the right to jury factfinding by waiving that right and then suggesting that a subsequent development in the law has fundamentally undermined his sentence”), cert. denied, 137 S. Ct. 672 (2017); see also Brant v. State, 197 So. 3d 1051, 1079 (Fla. 2016) (relying on Mullens to conclude that a claim for Hurst relief after defendant waived penalty phase jury was equally precluded in the postconviction context).

It is so ordered.

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

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND,
IF FILED, DETERMINED.

An Appeal from the Circuit Court in and for Pinellas County,
William H. Burgess III, Judge - Case No. 521999CF015522XXXXNO

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