

Supreme Court of Florida

No. SC17-499

PRESSLEY BERNARD ALSTON,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

No. SC17-983

PRESSLEY BERNARD ALSTON,
Petitioner,

vs.

JULIE L. JONES, etc.,
Respondent.

[January 22, 2018]

PER CURIAM.

Pressley Bernard Alston appeals the circuit court's order denying his motion filed pursuant to Florida Rule of Criminal Procedure 3.851 and petitions this Court

for a writ of habeas corpus. We have jurisdiction. See art. V, § 3(b)(1), (9), Fla. Const.

Alston seeks 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 Alston's appeal and consideration of his habeas petition pending the disposition of Hitchcock v. State, 226 So. 3d 216 (Fla. 2017), cert. denied, No. 17-6180, 138 S. Ct. 513 (2017). After this Court decided Hitchcock, Alston responded to this Court's order to show cause arguing why Hitchcock should not be dispositive in both cases.

After reviewing Alston's response to the order to show cause, as well as the State's arguments in reply, we conclude that Alston is not entitled to relief. Alston was sentenced to death following a jury's recommendation for death by a vote of nine to three, and his sentence of death became final in 1999. Alston v. State, 723 So. 2d 148, 153 (Fla. 1998). Thus, Hurst does not apply retroactively to Alston's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Alston's motion and deny his petition for a writ of habeas corpus.

The Court having carefully considered all arguments raised by Alston, 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 Duval County,
Russell Healey, Judge - Case No. 161995CF005326AXXXMA
And an Original Proceeding – Habeas Corpus

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