

Supreme Court of Florida

No. SC17-859

JAMES D. FORD,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

No. SC16-706

JAMES D. FORD,
Petitioner,

vs.

JULIE L. JONES, etc.,
Respondent.

[January 23, 2018]

PER CURIAM.

James D. Ford 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.

Ford 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 Ford's appeal and consideration of his habeas petition 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, Ford responded to this Court's order to show cause arguing why Hitchcock should not be dispositive in both cases.

After reviewing Ford's response to the order to show cause, as well as the State's arguments in reply, we conclude that Ford is not entitled to relief. Ford's jury found him guilty of two counts of first-degree murder and recommended a sentence of death for both murders by a vote of eleven to one. Ford v. State, 802 So. 2d 1121, 1126 (Fla. 2001). Following the jury's recommendations, the trial court sentenced Ford to death on both counts. Id. Ford's sentences of death became final on May 28, 2002. Ford v. Florida, 535 U.S. 1103 (2002). Thus, Hurst does not apply retroactively to Ford's sentences of death. See Hitchcock,

226 So. 3d at 217. Accordingly, we affirm the denial of Ford's motion and deny his petition for a writ of habeas corpus.

The Court having carefully considered all arguments raised by Ford, 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 Charlotte County,
Donald Herbert Mason, Judge - Case No. 081997CF0003510001XX
And an Original Proceeding – Habeas Corpus

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