

Supreme Court of Florida

No. SC17-703

ETHERIA VERDELL JACKSON,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[January 24, 2018]

PER CURIAM.

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

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

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

Jackson was sentenced to death following a jury's recommendation for death by a vote of seven to five. Jackson v. State, 530 So. 2d 269, 271 (Fla. 1988). His sentence of death became final in 1989. Jackson v. Florida, 488 U.S. 1050 (1989). Thus, Hurst does not apply retroactively to Jackson's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Jackson's motion.

The Court having carefully considered all arguments raised by Jackson, 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 L. Healey, Judge - Case No. 161985CF012620AXXXMA

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