

Supreme Court of Florida

No. SC17-837

IAN DECO LIGHTBOURNE,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[January 26, 2018]

PER CURIAM.

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

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

After reviewing Lightbourne's response to the order to show cause, as well as the State's arguments in reply, we conclude that Lightbourne is not entitled to relief. Lightbourne was sentenced to death following a jury's recommendation for death by an unrecorded vote. See Lightbourne v. State, 438 So. 2d 380, 391 (Fla. 1983).¹ Lightbourne's sentence of death became final in 1984. Lightbourne v. Florida, 465 U.S. 1051 (1984). Thus, Hurst does not apply retroactively to Lightbourne's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Lightbourne's motion.

The Court having carefully considered all arguments raised by Lightbourne, 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.

1. The jury's vote recommending a sentence of death was unrecorded, and, therefore, is not reflected in this Court's opinion on direct appeal. See Appellant's Br. Resp. Show Cause Order, Lightbourne v. State, No. SC17-837 (Fla. Oct. 16, 2017), at 12.

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 Marion County,
Robert W. Hodges, Judge - Case No. 421981CF000170CFAXXX

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