

Supreme Court of Florida

No. SC17-1147

ANTONIO LEBARON MELTON,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[February 2, 2018]

PER CURIAM.

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

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

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

Melton was sentenced to death following a jury's recommendation for death by a vote of eight to four. Melton v. State, 638 So. 2d 927, 928 (Fla. 1994). His

sentence of death became final in 1994. Melton v. Florida, 513 U.S. 971 (1994).

Thus, Hurst does not apply retroactively to Melton's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Melton's motion.

The Court having carefully considered all arguments raised by Melton, 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 Escambia County,
W. Joel Boles, Judge - Case No. 171991CF000373XXXBXX

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