

Supreme Court of Florida

No. SC17-1715

ALVIN LEROY MORTON,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[February 2, 2018]

PER CURIAM.

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

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

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

Morton was convicted of two counts of first-degree murder. Morton v. State, 789 So. 2d 324, 327 (Fla. 2001). Following a jury's recommendation for death by a vote of eleven to one on both counts, the trial court sentenced Morton to death on both counts, and his sentences became final in 2001. Id. at 328. Thus, Hurst does not apply retroactively to Morton's sentences of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Morton's motion.

The Court having carefully considered all arguments raised by Morton, 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 Pasco County,
William Robert Webb, Senior Judge - Case No. 511992CF000308CFAXWS

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