

# Supreme Court of Florida

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No. SC17-628

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**RICHARD WALLACE RHODES,**  
Appellant,

vs.

**STATE OF FLORIDA,**  
Appellee.

[January 23, 2018]

PER CURIAM.

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

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

After reviewing Rhodes' response to the order to show cause, as well as the State's arguments in reply, we conclude that Rhodes is not entitled to relief. Rhodes was sentenced to death following a jury's recommendation for death by a vote of ten to two. Rhodes v. State, 638 So. 2d 920, 923 (Fla. 1994). Rhodes' sentence of death became final in 1994. Rhodes v. Florida, 513 U.S. 1046 (1994). Thus, Hurst does not apply retroactively to Rhodes' sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Rhodes' motion.

The Court having carefully considered all arguments raised by Rhodes, we caution that any rehearing motion containing reargument will be stricken. It is so ordered.

LABARGA, C.J., and POLSTON, and LAWSON, JJ., concur.  
PARIENTE, J., concurs in result with an opinion.  
LEWIS and CANADY, JJ., concur in result.  
QUINCE, J., recused.

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 Pinellas County,  
William Douglas Baird, Judge - Case No. 521984CF003982XXXXNO

Sarah S. Butters, Ausley McMullen, Tallahassee, Florida, and Bjorn Brunvand and  
J. Jervis Wise, Brunvand Wise, P.A., Clearwater, Florida, and Billy H. Nolas,  
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for Appellant

Pamela Jo Bondi, Attorney General, and C. Suzanne Bechard, Assistant Attorney  
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