

Supreme Court of Florida

No. SC17-1074

JACK R. SLINEY,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[January 31, 2018]

PER CURIAM.

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

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

After reviewing Sliney's response to the order to show cause, as well as the State's arguments in reply, we conclude that Sliney is not entitled to relief. Sliney was sentenced to death following a jury's recommendation for death by a vote of seven to five. Sliney v. State, 699 So. 2d 662, 667 (Fla. 1997). His sentence of death became final in 1998. Sliney v. Florida, 522 U.S. 1129 (1998). Thus, Hurst does not apply retroactively to Sliney's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Sliney's motion.

The Court having carefully considered all arguments raised by Sliney, 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 Charlotte County,
George C. Richards, Judge - Case No. 081992CF0004510001XX

James Vincent Viggiano, Jr., Capital Collateral Regional Counsel, Julissa R. Fontán, Maria E. DeLiberato and Chelsea Shirley, Assistant Capital Collateral Regional Counsel, Middle Region, Temple Terrace, Florida,

for Appellant

Pamela Jo Bondi, Attorney General, Tallahassee, Florida, and Scott A. Browne, Senior Assistant Attorney General, Tampa, Florida,

for Appellee