

Supreme Court of Florida

No. SC17-1547

STEVEN EDWARD STEIN,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[January 31, 2018]

PER CURIAM.

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

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

After reviewing Stein's response to the order to show cause, as well as the State's arguments in reply, we conclude that Stein is not entitled to relief. A jury convicted Stein of two counts of first-degree murder and recommended a sentence of death for both murders by a vote of ten to two. Stein v. State, 632 So. 2d 1361, 1364 (Fla. 1994). Stein's sentences of death became final in 1994. Stein v. Florida, 513 U.S. 834 (1994). Thus, Hurst does not apply retroactively to Stein's sentences of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Stein's motion.

The Court having carefully considered all arguments raised by Stein, 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 Duval County,
Linda McCallum, Judge - Case No. 161991CF001505AXXXMA

Linda McDermott of McClain & McDermott, P.A., Estero, Florida,

for Appellant

Pamela Jo Bondi, Attorney General, and Charmaine M. Millsaps, Senior Assistant
Attorney General, Tallahassee, Florida,

for Appellee