

Supreme Court of Florida

No. SC17-820

JASON DEMETRIUS STEPHENS,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

No. SC17-1204

JASON DEMETRIUS STEPHENS,
Appellant,

vs.

JULIE L. JONES, etc.,
Appellee.

[January 22, 2018]

PER CURIAM.

Jason Demetrius Stephens appeals the circuit court's order denying his motion filed pursuant to Florida Rule of Criminal Procedure 3.851 and petitions

this Court for a writ of habeas corpus. We have jurisdiction. See art. V, § 3(b)(1), (9), Fla. Const.

Stephens seeks 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 Stephens' appeal and consideration of his habeas petition 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, Stephens responded to this Court's order to show cause arguing why Hitchcock should not be dispositive in both cases.

After reviewing Stephens' response to the order to show cause, as well as the State's arguments in reply, we conclude that Stephens is not entitled to relief. Stephens was sentenced to death following a jury's recommendation for death by a vote of nine to three. Stephens v. State, 787 So. 2d 747, 752 (Fla. 2001). Stephens' sentence of death became final in 2001. Stephens v. Florida, 534 U.S. 1025 (2001). Thus, Hurst does not apply retroactively to Stephens' sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Stephens' motion and deny his petition for a writ of habeas corpus.

The Court having carefully considered all arguments raised by Stephens, 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), 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,
Russell Healey, Judge - Case No. 161995CF005326AXXXMA
And an Original Proceeding – Habeas Corpus

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