

Supreme Court of Florida

No. SC17-686

ROBERT J. TREASE,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[January 24, 2018]

PER CURIAM.

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

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

After reviewing Trease's response to the order to show cause, as well as the State's arguments in reply, we conclude that Trease is not entitled to relief. Trease was sentenced to death following a jury's recommendation for death by a vote of eleven to one, and his sentence of death became final in 2001. Trease v. State, 768 So. 2d 1050, 1053 (Fla. 2000). Thus, Hurst does not apply retroactively to Trease's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Trease's motion.

The Court having carefully considered all arguments raised by Trease, 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, J., concur in result.
CANADY, 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 Sarasota County,

Rochelle Taylor Curley, Judge - Case No. 581995CF002207XXXANC

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