

SUPREME COURT OF FLORIDA

Richard Harold Anderson v. State of Florida

235 So. 3d 277 (Fla. 2018) · No. SC17-884 · Decided January 26, 2018

OPINION

PER CURIAM.

Supreme Court of Florida _____ No. SC17-884 _____ RICHARD HAROLD ANDERSON, Appellant, vs. STATE OF FLORIDA, Appellee. [January 26, 2018] PER CURIAM. We have for review Richard Harold Anderson's appeal of the circuit court's order denying Anderson's motion filed pursuant to Florida Rule of Criminal Procedure 3.851. This Court has jurisdiction. See art. V, § 3(b)(1), Fla. Const.

Anderson'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 Anderson'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*, Anderson responded to this Court's order to show cause arguing why *Hitchcock* should not be dispositive in this case. After reviewing Anderson's response to the order to show cause, as well as the State's arguments in reply, we conclude that Anderson is not entitled to relief. Anderson was sentenced to death following a jury's recommendation for death by a vote of eleven to one.

Anderson v. State, 574 So. 2d 87, 90 (Fla. 1991). Anderson's sentence of death became final in 1991. *Anderson v. Florida*, 502 U.S. 834 (1991). Thus, *Hurst* does not apply retroactively to Anderson's sentence of death. See *Hitchcock*, 226 So. 3d at 217.

Accordingly, we affirm the denial of Anderson's motion. The Court having carefully considered all arguments raised by Anderson, 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*. -2- An Appeal from the Circuit Court in and for Hillsborough County, Michelle Sisco, Judge - Case No. 291987CF008047000AHC James Viggiano, Jr., Capital Collateral Regional Counsel, Maria

E. DeLiberato, Julissa Fontán, and Chelsea Ray Shirley, Assistant Capital Collateral Regional Counsel, Middle Region, Temple Terrace, Florida, for Appellant Pamela Jo Bondi, Attorney General, and Christina Z. Pacheco, Assistant Attorney General, Tampa, Florida, for Appellee -3-

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616, 193 L.Ed.2d 504 (2016), and our decision on remand in *Hurst v. State* (*Hurst*), 202 So.3d 40 (Fla. 2016), cert. denied, — U.S. —, 137 S.Ct. 2161, 198 L.Ed.2d 246 (2017). This Court stayed Anderson's appeal pending the disposition of *Hitchcock v. State*, 226 So.3d 216 (Fla. 2017), cert. denied, — U.S. —, 138 S.Ct. 513, 199 L.Ed.2d 396 (2017).

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