

SUPREME COURT OF FLORIDA

David Joseph Pittman v. State of Florida

No. SC21-1185 (Fla. Apr. 28, 2022) · No. SC21-1185 · Decided April 28, 2022

SUMMARY

The Supreme Court of Florida affirmed the summary denial of David Joseph Pittman’s third amended successive motion for postconviction relief and his motion to correct an illegal sentence. The court held that Pittman’s intellectual disability claim under *Atkins v. Virginia* and *Hall v. Florida* was untimely, concluding that Hall did not apply retroactively and that the claim was not timely raised as newly discovered evidence. Justice Labarga dissented in part based on her dissent in *Phillips v. State*.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Carlos G. Muñoz; Charles T. Canady; Ricky Polston; Lawson; Jorge Labarga; Renatha Francis; Jamie R. Grosshans
JURISDICTION	Florida
DECIDED	April 28, 2022
DOCKET	SC21-1185
DISPOSITION	affirmed
PROCEDURAL POSTURE	Pittman appealed the circuit court's summary denial of his third amended successive motion for postconviction relief under Florida Rule of Criminal Procedure 3.851 and denial of his motion to correct an illegal sentence under Rule 3.800(a).
STANDARD OF REVIEW	The opinion does not expressly state a standard of review; it reviews the circuit court's summary denial of postconviction relief and denial of a Rule 3.800(a) motion.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; majority opinion precedential within Florida, subject to any later rehearing or subsequent treatment.
PARTIES	David Joseph Pittman v. State of Florida

TOPICS

- state post-conviction relief
- successive petitions
- sentencing
- appellate procedure
- criminal procedure

PRACTICE AREAS

criminal procedure

post-conviction relief

capital punishment

QUESTIONS PRESENTED

1. Whether Pittman's successive intellectual-disability claim under Atkins and Hall was timely under the governing version of Florida Rule of Criminal Procedure 3.203.
2. Whether Pittman's 2015 IQ score constituted newly discovered evidence permitting a timely successive postconviction claim.
3. Whether Pittman's death sentences were illegal under Florida Rule of Criminal Procedure 3.800(a) because he had not received an evidentiary hearing on his intellectual-disability claim.
4. Whether the circuit court erred by considering the State's motion to dismiss, allowing arguments not noticed for the dismissal hearing, or allegedly providing ineffective prior postconviction counsel.

HOLDINGS

1. Pittman was not entitled to postconviction relief because his intellectual-disability claim was untimely. Under the governing version of Florida Rule of Criminal Procedure 3.203, the claim had to be raised no later than 60 days after October 1, 2004.
2. Pittman's claim was also untimely to the extent it was based on his 2015 IQ score as newly discovered evidence because the motion was not filed within one year after the claim became discoverable through due diligence.
3. The circuit court properly denied Pittman's Rule 3.800(a) motion arguing that his death sentences were illegal because he had not received an evidentiary hearing on his intellectual-disability claim.

KEY QUOTATIONS

"We agree with the postconviction court that Pittman is not entitled to postconviction relief on his intellectual disability claim because that claim is untimely." (at 2)

"Record evidence refutes Pittman's claim that this information could not have been discovered prior to 2015." (at 3)

FACTUAL BACKGROUND

In 1991, Pittman was convicted of murdering Clarence and Barbara Knowles and their daughter Bonnie, along with two counts of arson and grand theft, and received three death sentences. In a successive postconviction motion, he alleged intellectual disability under Atkins v. Virginia and Hall v. Florida. He relied in part on an IQ score of 70 obtained in 2015, but the record showed that the relevant information could have been discovered earlier.

PROCEDURAL HISTORY

Pittman was convicted and sentenced to death for three first-degree murders and other offenses in 1991, and the Florida Supreme Court affirmed. After the United States Supreme Court denied certiorari in 1995, his sentences

became final. The Florida Supreme Court later affirmed denial of his initial postconviction motion and denied habeas relief. The circuit court summarily denied his successive intellectual-disability claim as untimely and denied his Rule 3.800(a) motion; the Florida Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Pittman v. State, 646 So. 2d 167, 168-69 (Fla. 1994)
- Pittman v. Florida, 514 U.S. 1119 (1995)
- Pittman v. State, 90 So. 3d 794, 820 (Fla. 2011)
- Atkins v. Virginia, 536 U.S. 304 (2002)
- Hall v. Florida, Hall v. Florida, 572 U.S. 701 (2014)
- Phillips v. State, 299 So. 3d 1013 (Fla. 2020)
- Dillbeck v. State, 304 So. 3d 286, 288 (Fla. 2020)
- Freeman v. State, 300 So. 3d 591 (Fla. 2020)
- Sweet v. State, 293 So. 3d 448 (Fla. 2020)
- Walls v. State, 213 So. 3d 340 (Fla. 2016)

OPINION

PER CURIAM.

Supreme Court of Florida _____ No. SC21-1185 _____ DAVID JOSEPH PITTMAN, Appellant, vs. STATE OF FLORIDA, Appellee. April 28, 2022 PER CURIAM. David Joseph Pittman, a prisoner under sentence of death, appeals the circuit court's order summarily denying his third amended successive motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.851 and his motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a).

We affirm the denial of relief. 1 In 1991, Pittman was convicted of the first-degree murders of Clarence and Barbara Knowles, and their daughter Bonnie, two 1. We have jurisdiction. See art. V, § 3(b)(1), Fla. Const. counts of arson, and grand theft. See Pittman v. State, 646 So. 2d 167, 168-69 (Fla. 1994). Pittman was sentenced to death for each murder, and this Court affirmed his convictions and sentences.

Id. His death sentences became final in 1995 when the United States Supreme Court denied certiorari review. Pittman v. Florida, 514 U.S. 1119 (1995). We also affirmed the denial of Pittman's initial postconviction motion and denied habeas relief. Pittman v. State, 90 So. 3d 794, 820 (Fla. 2011).

In 2015, Pittman filed his first successive postconviction motion. Following subsequent amendments, 2 Pittman's third amended successive postconviction motion³ alleged that he is intellectually disabled and entitled to relief based on *Atkins v. Virginia*, 536 U.S. 304 (2002), and *Hall v. Florida*, 572 U.S. 701 (2014). Pittman subsequently filed a rule 3.800(a) motion arguing that his death sentences are illegal because he has not received an evidentiary hearing on his intellectual disability claim.

The circuit 2. Pittman did not appeal the denial of his prior successive 3.851 motions. 3. Pittman's motion was titled as his "second" amended motion, but it is his third amended motion. -2- court summarily denied Pittman's third amended successive postconviction motion, finding that his intellectual disability claim was untimely, and also denied his rule 3.800(a) motion.

We agree with the postconviction court that Pittman is not entitled to postconviction relief on his intellectual disability claim because that claim is untimely. As this Court stated in *Phillips v. State*, 299 So. 3d 1013 (Fla. 2020), *Hall* does not apply retroactively.

Therefore, under the governing version of Florida Rule of Criminal Procedure 3.203, which this Court adopted in the wake of the Supreme Court's decision in *Atkins*, Pittman was required to raise his intellectual disability claim no later than 60 days after October 1, 2004. See *Amends. to Fla. Rules of Crim. Proc. & Fla. Rules of App. Proc.*, 875 So. 2d 563, 571 (Fla.

2004). To the extent Pittman argues that his IQ score of 70 from 2015 is newly discovered evidence, Pittman's motion was not timely because it was not filed within one year of the date upon which the claim became discoverable through due diligence. See *Dillbeck v. State*, 304 So. 3d 286, 288 (Fla. 2020). Record evidence refutes Pittman's claim that this information could not have been discovered prior to 2015. -3- Accordingly, we affirm the postconviction court's summary denial of Pittman's third amended successive postconviction motion and the denial of his rule 3.800(a) motion.⁴ It is so ordered.

CANADY, C.J., and POLSTON, LAWSON, MUÑIZ, COURIEL, and GROSSHANS, JJ., concur. LABARGA, J., dissents with an opinion. NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED. LABARGA, J., dissenting.

In light of my dissent in *Phillips v. State*, 299 So 3d 1013 (Fla. 2020) (receding from *Walls v. State*, 213 So. 3d 340 (Fla. 2016), and holding that *Hall v. Florida*, 572 U.S. 701 (2014), does not apply retroactively), I dissent to the majority's decision to the extent that it affirms the summary denial of Pittman's third amended successive motion for postconviction relief.

An Appeal from the Circuit Court in and for Polk County, Jalal A. Harb, Judge – Case No. 531990CF002242A1XXXX 4. We also reject without discussion Pittman's arguments that the circuit court erred in considering the State's motion to dismiss and in allowing arguments not

noticed for the motion to dismiss hearing, see *Freeman v. State*, 300 So. 3d 591 (Fla. 2020), and his argument that his prior postconviction counsel was ineffective, see *Sweet v. State*, 293 So.

3d 448 (Fla. 2020). -4- Eric Pinkard, Capital Collateral Regional Counsel, Julissa R. Fontán, Heather A. Forgét, and Natalia C. Reyna-Pimiento, Assistant Capital Collateral Regional Counsel, Middle Region, Temple Terrace, Florida, for Appellant Ashley Moody, Attorney General, Tallahassee, Florida, and Timothy A. Freeland, Senior Assistant Attorney General, Tampa, Florida, for Appellee -5-