

SUPREME COURT OF FLORIDA

In re Standard Criminal Jury Instructions in Capital Cases

244 So. 3d 172 (Fla. 2018) · No. SC17-583 · Decided May 24, 2018

SUMMARY

The Florida Supreme Court further amended and authorized capital-case criminal jury instructions in response to *Hurst v. Florida*, *Hurst v. State*, and 2017 amendments to Florida's death-penalty statute. The opinion revised the jury verdict form and renumbered and amended preliminary and final penalty-phase instructions. A concurrence in result urged trial courts to use verdict forms specifying jury findings on mitigating circumstances.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Lewis; Canady; Polston; Lawson; Pariente; Labarga; Quince
JURISDICTION	Florida
DECIDED	May 24, 2018
DOCKET	SC17-583
DISPOSITION	other
PROCEDURAL POSTURE	Original proceeding concerning comments and proposed amendments to Florida's standard criminal jury instructions in capital cases.
PRECEDENTIAL VALUE	published

TOPICS

[standard jury instructions](#) [jury instructions](#) [sentencing](#) [criminal procedure](#)

PRACTICE AREAS

[criminal law](#) [capital sentencing](#) [jury instructions](#) [Florida appellate procedure](#)

QUESTIONS PRESENTED

1. Whether the Florida Supreme Court should further amend and authorize for publication and use the standard capital-case jury instructions in light of *Hurst v. Florida*, *Hurst v. State*, and amendments to section 921.141, Florida Statutes.

2. Whether the amended instructions should revise the capital sentencing verdict form, preliminary instructions, final instructions, and jury-polling dialogue.

HOLDINGS

1. The Court further amended and authorized the capital-case jury instructions set forth in the appendix for immediate publication and use.
2. The standard verdict form was amended so that it no longer requires jurors to list the mitigating circumstances found or provide the jury vote as to the existence of mitigating circumstances, although the Court did not foreclose trial courts from using additional or alternative verdict forms.
3. The authorized instructions require unanimous jury findings that at least one aggravating factor exists beyond a reasonable doubt, that the aggravating factors are sufficient to warrant a possible death sentence, that the aggravating factors outweigh mitigating circumstances, and that the defendant should be sentenced to death.

KEY QUOTATIONS

“In authorizing the publication and use of these instructions, we express no opinion on their correctness and remind all interested parties that this authorization forecloses neither requesting additional or alternative instructions nor contesting the legal correctness of these instructions.” (at 4)

“We further held that a unanimous jury recommendation for death is required before a trial court may impose a sentence of death.” (at 2)

“The jury’s decision regarding the appropriate sentence must be unanimous if death is to be imposed.” (appendix at 25)

FACTUAL BACKGROUND

This was not a dispute arising from an individual criminal prosecution. The Court reviewed proposed amendments to standard capital sentencing jury instructions after constitutional and statutory changes required unanimous jury findings concerning aggravating factors, their sufficiency, the weighing of aggravating and mitigating circumstances, and the sentence of death. The amendments addressed the verdict form, preliminary and final penalty-phase instructions, and jury polling.

PROCEDURAL HISTORY

The Court previously authorized amended and new capital-case instructions for publication and interim use on its own motion in response to *Hurst v. Florida*, *Hurst v. State*, and amendments to section 921.141, Florida Statutes. The Court solicited comments, received comments and a response from the Supreme Court Committee on Standard Jury Instructions in Criminal Cases, heard oral argument, and adopted further amendments.

DISPOSITION

other

CASES CITED

- In re Standard Criminal Jury Instructions in Capital Cases, 214 So. 3d 1236 (Fla. 2017)
- Hurst v. Florida, 136 S. Ct. 616 (2016)
- Hurst v. State, 202 So. 3d 40, 54 (Fla. 2016), cert. denied, 137 S. Ct. 2161 (2017)
- Hitchcock v. State, 673 So. 2d 859 (Fla. 1996)
- Green v. State, 907 So. 2d 489, 496 (Fla. 2005)
- Castro v. State, 597 So. 2d 259 (Fla. 1992)
- Hannon v. State, 228 So. 3d 505, 514-19 (Fla.), cert. denied, 138 S. Ct. 441 (2017)
- Kaczmar v. State, 228 So. 3d 1, 16-17 (Fla. 2017)
- Lebron v. State, 982 So. 2d 649, 671 (Fla. 2008)
- Coday v. State, 946 So. 2d 988, 1023-25 (Fla. 2006)
- Aguirre-Jarquin v. State, 9 So. 3d 593, 611-13 (Fla. 2009)
- In re Standard Jury Instructions in Criminal Cases—Report No. 2005-2, 22 So. 3d 17, 24-27 (Fla. 2009)
- Franklin v. State, 965 So. 2d 79, 104 (Fla. 2007)
- Huggins v. State, 889 So. 2d 743, 777 (Fla. 2004)