

Supreme Court of Florida

No. SC17-440

MICHAEL A. HERNANDEZ, JR.,
Petitioner,

vs.

JULIE L. JONES, etc.,
Respondent.

[May 11, 2017]

PER CURIAM.

Petitioner, Michael A. Hernandez, Jr., has filed a petition for writ of habeas corpus, challenging the constitutionality of his death sentence, which was based upon a nonunanimous jury recommendation. See Hernandez v. State, 4 So. 3d 642, 654 (Fla. 2009). We have jurisdiction. See art. V, § 3(b)(9), Fla. Const. Because Hernandez's sentence became final after Ring v. Arizona, 536 U.S. 584 (2002), he is entitled to relief. See Mosley v. State, 209 So. 3d 1248 (Fla. 2016). Accordingly, we grant the petition, vacate the sentence of death, and remand this case for a new penalty phase proceeding.

It is so ordered.

LABARGA, C.J., and PARIENTE, LEWIS, and QUINCE, JJ., concur.
CANADY, POLSTON, and LAWSON, JJ., dissent.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND
IF FILED, DETERMINED.

Original Proceeding – Habeas Corpus

Curtis M. French, Tallahassee, Florida; and Billy H. Nolas, Chief, Capital Habeas
Unit, Office of the Federal Public Defender, Northern District of Florida,
Tallahassee, Florida,

for Petitioner

Pamela Jo Bondi, Attorney General, and Charmaine Millsaps, Senior Assistant
Attorney General, Tallahassee, Florida,

for Respondent