

Supreme Court of Florida

No. SC17-1144

JAMES BERNARD BELCHER,
Petitioner,

vs.

JULIE L. JONES, etc.,
Respondent.

[November 2, 2017]

PER CURIAM.

Petitioner James Bernard Belcher 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 Belcher v. State, 851 So. 2d 678 (Fla. 2003). We have jurisdiction. See art. V, § 3(b)(9), Fla. Const. Because Belcher'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.
LAWSON, J., concurs specially with an opinion.
CANADY and POLSTON, JJ., dissent.

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

LAWSON, J., concurring specially.

See Okafor v. State, 42 Fla. L. Weekly S639, S641, 2017 WL 2481266, at
*6 (Fla. June 8, 2017) (Lawson, J., concurring specially).

Original Proceeding – Habeas Corpus

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for Petitioner

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for Respondent