

Supreme Court of Florida

No. SC17-1021

BRUCE DOUGLAS PACE,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[January 30, 2018]

PER CURIAM.

We have for review Bruce Douglas Pace's appeal of the circuit court's order denying Pace's motion filed pursuant to Florida Rule of Criminal Procedure 3.851. This Court has jurisdiction. See art. V, § 3(b)(1), Fla. Const.

Pace'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 Pace'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, Pace responded to this Court's order to show cause arguing why Hitchcock should not be dispositive in this case.

After reviewing Pace's response to the order to show cause, as well as the State's arguments in reply, we conclude that Pace is not entitled to relief. Pace was sentenced to death following a jury's recommendation for death by a vote of seven to five. See Pace v. State, 596 So. 2d 1034, 1035 (Fla. 1992).¹ His sentence of death became final in 1992. Pace v. Florida, 506 U.S. 885 (1992). Thus, Hurst does not apply retroactively to Pace's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Pace's motion.

The Court having carefully considered all arguments raised by Pace, we caution that any rehearing motion containing reargument will be stricken. It is so ordered.

LABARGA, C.J., and QUINCE, POLSTON, and LAWSON, JJ., concur.
PARIENTE, J., concurs in result with an opinion.
LEWIS and CANADY, JJ., concur in result.

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

1. While the jury's vote to recommend a sentence of death is not reflected in this Court's opinion on direct appeal, this Court's opinion addressing Pace's initial postconviction appeal and separate petition for a writ of habeas corpus states that the jury voted seven to five to recommend a sentence of death. Pace v. State, 854 So. 2d 167, 170 (Fla. 2003).

final. However, I continue to adhere to the views expressed in my dissenting opinion in Hitchcock.

An Appeal from the Circuit Court in and for Santa Rosa County,
David H. Rimmer, Judge - Case No. 571988CF000689XXAXMX

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