

Supreme Court of Florida

No. SC17-1143

HENRY PERRY SIRECI,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[January 31, 2018]

PER CURIAM.

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

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

After reviewing Sireci's response to the order to show cause, as well as the State's arguments in reply, we conclude that Sireci is not entitled to relief. Sireci was sentenced to death following a jury's recommendation for death by a vote of eleven to one. Sireci v. State, 587 So. 2d 450, 451-52 (Fla. 1991). Sireci's sentence of death became final in 1992. Sireci v. Florida, 503 U.S. 946 (1992). Thus, Hurst does not apply retroactively to Sireci's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Sireci's motion.

The Court having carefully considered all arguments raised by Sireci, 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 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 Orange County,
Wayne C. Wooten, Judge - Case No. 481976CF000532000AOX

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