

Supreme Court of Florida

No. SC17-1306

MICHAEL ALLEN GRIFFIN
Appellant,

vs.

STATE OF FLORIDA
Appellee.

[February 2, 2018]

PER CURIAM.

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

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

After reviewing Griffin's response to the order to show cause, as well as the State's arguments in reply, we conclude that Griffin is not entitled to relief. Griffin was sentenced to death following a jury's recommendation for death by a vote of ten to two. Griffin v. State, 639 So. 2d 966, 968 (Fla. 1994). Griffin's sentence of death became final in 1995. Griffin v. Florida, 514 U.S. 1005 (1995). Thus, Hurst does not apply retroactively to Griffin's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Griffin's motion.

The Court having carefully considered all arguments raised by Griffin, 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 Dade County,
Diane Valentina Ward, Judge - Case No. 131990CF016875C000XX

Martin J. McClain of McClain & McDermott, P.A., Wilton Manors, Florida,

for Appellant

Pamela Jo Bondi, Attorney General, Tallahassee, Florida, and Melissa J. Roca,
Assistant Attorney General, Miami, Florida,

for Appellee