

Supreme Court of Florida

No. SC17-737

LORAN COLE,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[January 23, 2018]

PER CURIAM.

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

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

After reviewing Cole's response to the order to show cause, as well as the State's arguments in reply, we conclude that Cole is not entitled to relief. Cole was sentenced to death following a jury's unanimous recommendation for death. Cole v. State, 701 So. 2d 845, 849 (Fla. 1997). Cole's sentence of death became final in 1998. Cole v. Florida, 523 U.S. 1051 (1998). Thus, Hurst does not apply retroactively to Cole's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Cole's motion.

The Court having carefully considered all arguments raised by Cole, 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 Marion County,
Willard Ira Pope, Judge - Case No. 421994CF000498CFAXXX

James Vigianno, Capital Collateral Regional Counsel, and Ali Andrew Shakoor,
Assistant Capital Collateral Regional Counsel, Middle Region, Temple Terrace,
Florida,

for Appellant

Pamela Jo Bondi, Attorney General, and Lisa-Marie Lerner, Assistant Attorney
General, West Palm Beach, Florida,

for Appellee