

Supreme Court of Florida

No. SC18-1190

JAMES AREN DUCKETT,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

December 28, 2018

PER CURIAM.

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

Duckett'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). Duckett responded to this Court's order to show cause arguing why *Hitchcock v. State*, 226 So. 3d 216 (Fla.), *cert. denied*, 138 S. Ct. 513 (2017), should not be dispositive in this case.

After reviewing Duckett’s response to the order to show cause, as well as the State’s arguments in reply, we conclude that Duckett is not entitled to relief. Duckett was convicted of first-degree murder and sentenced to death following the jury’s recommendation for death by a vote of eight to four, and his sentence of death became final in 1990. *Duckett v. State*, 568 So. 2d 891, 894 (Fla. 1990). Thus, *Hurst* does not apply retroactively to Duckett’s sentence of death. *See Hitchcock*, 226 So. 3d at 217; *see also Foster v. State*, No. SC18-860, 2018 WL 6379348, at *2-4 (Fla. Dec. 6, 2018) (explaining why the “elements of ‘capital first-degree murder’ ” argument derived from *Hurst* and the legislation implementing *Hurst* “has no merit”). Accordingly, we affirm the postconviction court’s order denying relief.

It is so ordered.

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

NO MOTION FOR REHEARING WILL BE ALLOWED.

An Appeal from the Circuit Court in and for Lake County,
William Gray Law, Jr., Judge - Case Nos. 351987CF001347AXXXXX &
351988CF000262AXXXXX

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