

Supreme Court of Florida

No. SC18-285

VICTOR TONY JONES,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[May 2, 2018]

PER CURIAM.

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

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

After reviewing Jones' response to the order to show cause, as well as the State's arguments in reply, we conclude that Jones is not entitled to relief. A jury convicted Jones of two counts of first-degree murder and recommended a sentence of death for each count, one by a vote of ten to two and the other by a vote of twelve to zero. *Jones v. State*, 652 So. 2d 346, 348 (Fla. 1995). Following the jury's recommendations, the trial court sentenced Jones to death on both counts. *Id.* Jones' sentences of death became final in 1995. *Jones v. Florida*, 516 U.S. 875 (1995). Thus, *Hurst* does not apply retroactively to Jones' sentences of death. *See Hitchcock*, 226 So. 3d at 217. Accordingly, we affirm the denial of Jones' motion.

The Court having carefully considered all arguments raised by Jones, 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 Miami-Dade County,
Dennis James Murphy, Judge - Case No. 131990CF0501430001XX

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