

Supreme Court of Florida

No. SC18-541

STEPHEN TODD BOOKER,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

August 30, 2018

PER CURIAM.

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

Booker'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). Booker 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 Booker's response to the order to show cause, as well as the State's arguments in reply, we conclude that our prior denial of Booker's petition for a writ of habeas corpus raising similar claims is a procedural bar to the claims at issue in this appeal. All of Booker's claims depend upon the retroactive application of *Hurst*, to which we have held he is not entitled. *See Booker v. Jones*, 235 So. 3d 298, 299 (Fla. 2018); *Hitchcock*, 226 So. 3d at 217.

Accordingly, we affirm the denial of Booker's motion.

The Court having carefully considered all arguments raised by Booker, we caution that any rehearing motion containing reargument will be stricken. It is so ordered.

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

An Appeal from the Circuit Court in and for Alachua County,
William Elbridge Davis, Judge - Case No. 011977CF002332AXXXXX

Billy H. Nolas, Chief, Capital Habeas Unit, Office of the Federal Public Defender,
Northern District of Florida, Tallahassee, Florida, and Ann Finnell of Finnell,
McGuinness, Nezami & Andux, P.A., Jacksonville, Florida,

for Appellant

Pamela Jo Bondi, Attorney General, and Lisa A. Hopkins, Assistant Attorney
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for Appellee