

Supreme Court of Florida

No. SC17-807

GREGORY ALAN KOKAL,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[January 24, 2018]

PER CURIAM.

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

Kokal'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 Kokal's appeal pending the disposition of Hitchcock v. State, 226 So. 3d 216 (Fla. 2017), cert. denied, No. 17-6180, 2017 WL 4355572

(U.S. Dec. 4, 2017). After this Court decided Hitchcock, Kokal responded to this Court's order to show cause arguing why Hitchcock should not be dispositive in this case.

After reviewing Kokal's response to the order to show cause, as well as the State's arguments in reply, we conclude that Kokal is not entitled to relief. Kokal was sentenced to death following a jury's unanimous recommendation for death, and his sentence of death became final in 1986. Kokal v. State, 492 So. 2d 1317, 1319 (Fla. 1986). Thus, Hurst does not apply retroactively to Kokal's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Kokal's motion.

The Court having carefully considered all arguments raised by Kokal, 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 Duval County,
Russell L. Healey, Judge - Case No. 161983CF008975AXXXMA

Linda McDermott of McClain and McDermott, Wilton Manners, Florida,
for Appellant

Pamela Jo Bondi, Attorney General, and Jennifer Ann Donahue, Assistant
Attorney General, Tallahassee, Florida,

for Appellee