

Supreme Court of Florida

No. SC17-862

JOHN CHRISTOPHER MARQUARD,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[January 24, 2018]

PER CURIAM.

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

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

After reviewing Marquard's response to the order to show cause, as well as the State's arguments in reply, we conclude that Marquard is not entitled to relief. Marquard was sentenced to death following a jury's unanimous recommendation for death. Marquard v. State, 641 So. 2d 54, 56 (Fla. 1994). Marquard's sentence of death became final in 1995. Marquard v. Florida, 513 U.S. 1132 (1995). Thus, Hurst does not apply retroactively to Marquard's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Marquard's motion.

The Court having carefully considered all arguments raised by Marquard, 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 St. Johns County,
Howard Mason Maltz, Judge - Case No. 551991CF002418XXAXMX

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