

# Supreme Court of Florida

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No. SC17-1281

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**NORBERTO PIETRI,**  
Appellant,

vs.

**STATE OF FLORIDA,**  
Appellee.

[February 2, 2018]

PER CURIAM.

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

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

After reviewing Pietri's response to the order to show cause, as well as the State's arguments in reply, we conclude that Pietri is not entitled to relief. Pietri was sentenced to death following a jury's recommendation for death by a vote of eight to four. Pietri v. State, 644 So. 2d 1347, 1349 (Fla. 1994). Pietri's sentence of death became final in 1995. Pietri v. Florida, 515 U.S. 1147 (1995). Thus, Hurst does not apply retroactively to Pietri's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Pietri's motion.

The Court having carefully considered all arguments raised by Pietri, 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 Palm Beach County,  
John S. Kastrenakes, Judge - Case No. 501988CF011366AXXXMB

Neal Dupree, Capital Collateral Regional Counsel, William M. Hennis, III,  
Litigation Director, and Marta Jaszczolt, Staff Attorney, Capital Collateral  
Regional Counsel, Southern Region, Fort Lauderdale, Florida,

for Appellant

Pamela Jo Bondi, Attorney General, Tallahassee, Florida, and Leslie T. Campbell,  
Senior Assistant Attorney General, West Palm Beach, Florida,

for Appellee