

URGENT ACTION

FLORIDA CARRIES OUT ITS THIRD EXECUTION OF 2017

Patrick Hannon was executed in Florida on 8 November. He was convicted in July 1991 of two murders committed six months earlier. The US Supreme Court considered final appeals but eventually declined to intervene.

Patrick Hannon's execution, scheduled for 6pm on 8 November, was delayed while the US Supreme Court considered final appeals. It declined to intervene, the execution proceeded, and Patrick Hannon was pronounced dead at 8.50pm. He was convicted in July 1991 of the murders of Brandon Snider and Robert Carter in Tampa six months earlier.

On 12 January 2016, in *Hurst v. Florida*, the US Supreme Court ruled Florida's capital sentencing scheme unconstitutional because it gave juries only an advisory role in sentencing. This, it said, was incompatible with its 2002 *Ring v. Arizona* decision that the US Constitution requires juries, rather than judges, to make the factual findings necessary to sentence a defendant to death. In December 2016, the Florida Supreme Court ruled that *Hurst* applied retroactively to just over half of the nearly 400 prisoners then on death row, who would be entitled to resentencing if the state failed to prove that the "*Hurst* error" was "harmless". Justice James Perry dissented, arguing that the majority had decided "to arbitrarily draw a line between June 23 and June 24, 2002 – the day before and the day after *Ring* was decided", but "does not offer a convincing rationale as to why 173 death sentenced persons should be treated differently than those whose sentences became final post-*Ring*... The majority's application of *Hurst v. Florida* makes constitutional protection depend on little more than a roll of the dice." Justice Barbara Pariente also argued that *Hurst* should apply retroactively to all death sentences.

On 1 November, the Florida Supreme Court denied Patrick Hannon's latest appeal. Justice Pariente dissented, arguing that *Hurst* should apply to his sentence and that "because Hannon's jury never heard the substantial mitigation that could have been presented if his counsel had performed a reasonable investigation, I would not rely on the jury's unanimous recommendation for death to conclude that the *Hurst* error is harmless". She had been one of two Justices who had argued in 2006 that the death sentence should be overturned because of his trial lawyer's failure to investigate and present compelling mitigation evidence. Dissenting again now, she argued that not only was the jury "denied access to voluminous evidence of mitigation", Patrick Hannon's co-defendant, "who had personal motivation to commit the crime and first attacked the targeted victim, received a life sentence of which this Court was unaware when it affirmed Hannon's sentences on direct appeal" (in 1994).

On 8 November, the US Court of Appeals for the Eleventh Circuit refused to stay the execution. One of the three judges expressed his concern about Florida's post-*Hurst* legal landscape: "No one disputes that [Patrick Hannon] was sentenced to death by a process we now recognize as unconstitutional. Neither does anyone dispute that others who were sentenced to death under those same unconstitutional procedures are eligible for resentencing under Florida's new law. The Florida Supreme Court's retroactivity analysis therefore leaves the difference between life and death to turn on either fatal or fortuitous accidents of timing... [H]is impending execution is a stark illustration of the problems with Florida's retroactivity rule... I say finality should yield to fairness, particularly when the State is taking the life of this man based on a death sentence that was unconstitutionally imposed."

There have been 23 executions in the USA this year, three in Florida. Florida accounts for 95 of the 1,465 executions nationwide since 1976 when the US Supreme Court upheld revised statutes.

No further action by the UA Network is requested. Many thanks to all who sent appeals.

Name: Patrick Hannon
Gender m/f: m

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