Supreme Court of Florida

THURSDAY, APRIL 2, 2020

CASE NO.: SC18-245
Lower Tribunal No(s).:
532001CF007078A0XXXX

STATE OF FLORIDA	vs.	MARK ANTHONY POOLE
Appellant/Cross-Appellee		Appellee/Cross-Appellant

On February 7, 2020, Poole filed a Motion for Rehearing and Clarification. We deny rehearing but grant clarification of this Court's instructions on remand. Remand for "proceedings consistent with this opinion" may include resolution of Poole's remaining penalty-phase claims that were raised in his postconviction motion but not addressed on the merits by the trial court in its order.

CANADY, C.J., and POLSTON, LAWSON, and MUÑIZ, JJ., concur.
LABARGA, J., concurs in part and dissents in part with an opinion.

LABARGA, J., concurring in part and dissenting in part.

I concur in the majority's decision to clarify that on remand, Poole is entitled to the resolution of penalty phase claims raised in his postconviction motion that were not decided given this Court's decision in *Hurst v. State*, 202 So. 3d 40 (Fla. 2016), *receded from in part by State v. Poole*, 45 Fla. L. Weekly S41 (Fla. Jan. 23, 2020).

However, I remain firmly committed to my dissent in *Poole*, and to my position that the opinion was wrongly decided. I would grant rehearing, and I dissent to the majority's decision to deny rehearing in this case.

John A. Tomasino
Clerk, Supreme Court

so
Served:

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MARK J. MACDOUGALL
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