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## ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 2008-2009

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CR-05-0421

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Roy Burgess, Jr.

v.

State of Alabama

Appeal from Morgan Circuit Court  
(CC-93-1270.60)

After Remand from the Alabama Supreme Court

McMILLAN, Retired Appellate Judge.

Pursuant to the Alabama Supreme Court's decision in Ex parte Burgess, [Ms. 1070635, September 5, 2008] \_\_\_ So. 3d \_\_\_, (Ala. 2008), the circuit court's judgment is reversed and

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the cause remanded to the circuit court for proceedings consistent with that opinion specifically to hold an evidentiary hearing concerning Burgess's claims of juror misconduct and to determine whether he is entitled to a new trial.

The foregoing opinion was prepared by Retired Appellate Judge H.W. "Bucky" McMillan while serving on active-duty status as a judge of this court under the provisions of § 12-18-10(e), Ala. Code 1975.

REVERSED AND REMANDED.

Wise, P.J., and Welch, Windom, and Kellum, JJ., concur.