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ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 2010-2011

CR-09-1767

Samuel Earl Ivory

v.

State of Alabama

Appeal from Tuscaloosa Circuit Court
(CC-95-73.66; CC-95-117.66; CC-95-118.66)

PER CURIAM.

AFFIRMED BY UNPUBLISHED MEMORANDUM.

Welch and Main, JJ., concur. Kellum, J., concurs specially, with opinion. Wise, P.J., and Windom, J., concur in the result.

KELLUM, Judge, concurring specially.

I write specially to note that this action appears to be Ivory's sixth Rule 32, Ala. R. Crim. P., petition challenging his 1995 convictions. Ivory has raised nearly identical challenges to his indictment in at least five of these Rule 32 petitions. I believe that allowing Ivory to file unlimited petitions for postconviction relief in which he repeatedly raises the same issues wastes scarce judicial resources. Given the number of Rule 32 petitions filed by Ivory and the nature of the claims made in those petitions, I would encourage the circuit court to adopt sanctions pursuant to Peoples v. State, 531 So. 2d 323 (Ala. Crim. App. 1988), and Procup v. Strickland, 792 F.2d 1069 (11th Cir. 1986), to prevent future frivolous litigation on the part of Ivory. See Ex parte Thompson, 38 So. 3d 119 (Ala. Crim. App. 2009), and other cases involving similarly situated inmates.