

REL 12/19/2008

Notice: This opinion is subject to formal revision before publication in the advance sheets of Southern Reporter. Readers are requested to notify the **Reporter of Decisions**, Alabama Appellate Courts, 300 Dexter Avenue, Montgomery, Alabama 36104-3741 ((334) 242-4621), of any typographical or other errors, in order that corrections may be made before the opinion is printed in Southern Reporter.

ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 2008-2009

CR-04-0940

Anthony Ray Hinton

v.

State of Alabama

**Appeal from Jefferson Circuit Court
(CC-85-3363.10 and CC-85-3364.10)**

On Remand from the Alabama Supreme Court

PER CURIAM.

In accordance with the Alabama Supreme Court's opinion in Ex parte Hinton, [Ms. 1051390, October 17, 2008] ___ So. 2d

CR-04-0940

___ (Ala. 2008), we remand this case to the circuit court for that court to conduct proceedings that are consistent with that opinion. On remand, the circuit court shall take all necessary action to see that the circuit clerk makes due return to this court at the earliest possible time and within 84 days after the release of this opinion. The return to remand shall include the circuit court's written findings of fact; any additional pleadings that are submitted on remand; and a transcript of the remand hearing if the circuit court conducts such a hearing.

REMANDED WITH INSTRUCTIONS.

McMillan, Shaw, Wise, and Welch, JJ., concur.

BASCHAB, PRESIDING JUDGE, concurring specially.

Because this court is bound by the decisions of the Alabama Supreme Court, I am compelled to concur. However, I would note that, by allowing Payne to testify, the trial court found, at least implicitly, that he was a qualified and competent firearms expert. Therefore, a remand for findings on the issue is a waste of already scarce judicial resources.