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ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 2007-2008

CR-06-0630

Henry Roger Jones, Jr.

v.

State of Alabama

Appeal from Franklin Circuit Court
(CC-06-89)

BASCHAB, PRESIDING JUDGE

The appellant, Henry Roger Jones, Jr., was indicted for capital murder, felony-murder, murder, and first-degree burglary. He was convicted of felony-murder, a violation of §13A-6-2(a)(3), Ala. Code 1975, and first-degree burglary, a

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violation of §13A-7-5, Ala. Code 1975. The trial court sentenced him to serve concurrent terms of life in prison on the felony-murder conviction and twenty-five years in prison on the first-degree burglary conviction. In an unpublished memorandum that is being released today, we affirm as to the issues the appellant raises in his brief to this court. See Jones v. State, (CR-06-0630, December 21, 2007) ___ So. 2d ___ (Ala. Crim. App. 2007) (table). In this opinion, we address the propriety of his convictions for both felony-murder and burglary.

In this case, the appellant was convicted of both felony-murder and first-degree burglary. However, the same burglary formed the basis for the felony-murder conviction and the first-degree burglary conviction. Therefore, the appellant's convictions for both felony-murder and first-degree burglary violate double jeopardy principles. See Edwards v. State, 907 So. 2d 1077 (Ala. Crim. App. 2004); Harris v. State, 854 So. 2d 145 (Ala. Crim. App. 2002); Peterson v. State, 842 So. 2d 734 (Ala. Crim. App. 2001). Accordingly, we remand this case to the trial court with instructions that that court vacate the appellant's conviction and sentence for first-degree

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burglary. The trial 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 42 days after the release of this opinion.

AFFIRMED BY UNPUBLISHED MEMORANDUM IN PART; REMANDED WITH INSTRUCTIONS.

McMillan, Wise, and Welch, JJ., concur; Shaw, J., concurs in the result.