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ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 2007-2008

CR-06-1126

State of Alabama

v.

Steven Ray Dubose

Appeal from Mobile Circuit Court
(CC-07-326)

On Application for Rehearing

SHAW, Judge.

APPLICATION FOR REHEARING OVERRULED.

McMillan and Welch, JJ., concur. Baschab, P.J.,
dissents, adheres to original writing. Wise, J., dissents,
with opinion.

CR-06-1126

WISE, Judge, dissenting.

Although I concurred in this Court's original unpublished memorandum in this case, issued on November 2, 2007, I was deeply troubled by our holding. Upon careful consideration of the State's application for rehearing and the accompanying brief, together with Judge Baschab's dissent to the unpublished memorandum, I am persuaded that this Court's original decision was incorrect. Therefore, I must respectfully dissent from the denial of rehearing for the reasons set forth in my dissent from the denial of rehearing in State v. Clemons, [Ms. CR-05-1950, February 1, 2008] ___ So. 2d ___, ___ (Ala.Crim.App. 2007) (on application for rehearing) (Wise, J., dissenting).