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# ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 2018-2019

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CR-09-0998

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State of Alabama

v.

Emanuel Aaron Gissendanner, Jr.

Appeal from Dale Circuit Court  
(CC-01-350.60)

On Remand from the Alabama Supreme Court

COLE, Judge.

Emanuel Aaron Gissendanner, Jr., was convicted of two counts of capital murder for killing Margaret Snellgrove during the course of a kidnapping and a robbery, see §§ 13A-5-40(a)(1) and 13A-5-40(a)(2), and one count of possessing or

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uttering a forged check drawn on Snellgrove's bank account, see § 13A-9-6, Ala. Code 1975. Gissendanner was sentenced to death for the capital-murder convictions and to life imprisonment for the forgery conviction. This Court affirmed Gissendanner's convictions and sentences on direct appeal, Gissendanner v. State, 949 So. 2d 956 (Ala. Crim. App. 2006), and the Alabama Supreme Court denied his petition for a writ of certiorari.

In August 2007, Gissendanner filed a timely Rule 32, Ala. R. Crim. P., petition for postconviction relief, challenging his convictions and sentences. In August 2009, the circuit court held an evidentiary hearing on Gissendanner's petition, and, on March 30, 2010, it issued an order granting Gissendanner's petition. In its order, the circuit court found that "Gissendanner had been denied his constitutional right to the effective assistance of counsel, and set aside his conviction and his sentence." The State appealed.

On appeal, a majority of this Court held that "the circuit court erred in granting Gissendanner relief on claims of ineffective assistance of counsel," and remanded Gissendanner's case to the circuit court "for the limited

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purpose of addressing Gissendanner's penalty-phase claims of ineffective assistance of counsel it ha[d] not already ruled on." State v. Gissendanner, [Ms. CR-09-0998, Oct. 23, 2015] \_\_\_ So. 3d \_\_\_, \_\_\_ (Ala. Crim. App. 2015) (opinion on application for rehearing).

On remand, the circuit court concluded that Gissendanner was not entitled to relief based on his claims of ineffective assistance of counsel that had not been previously addressed. \_\_\_ So. 3d at \_\_\_ (opinion on return to remand, Feb. 10, 2017). On return to remand, this Court affirmed "the circuit court's order on remand," reversed the "circuit court's original order granting Gissendanner's petition," and remanded Gissendanner's case to the circuit court "to reinstate Gissendanner's capital-murder conviction and his sentences of death." Id. Gissendanner then petitioned the Alabama Supreme Court for certiorari review.

On January 4, 2019, the Alabama Supreme Court reversed this Court's judgment "to the extent it reverse[d] [the circuit court's] order granting Gissendanner's petition for postconviction relief, and ... direct[ed] [this Court] to take the necessary action to reinstate [the circuit court's] order

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granting Gissendanner a new trial." Ex parte Gissendanner,  
[Ms. 1160762, Jan. 4, 2019] \_\_\_ So. 3d \_\_\_, \_\_\_ (Ala. 2019).

In accordance with the direction of the Alabama Supreme Court, we affirm the original judgment of the circuit court granting Gissendanner's Rule 32 petition for postconviction relief and granting him a new trial.

AFFIRMED.

Kellum, McCool, and Minor, JJ., and Lyons, Special Judge,\*  
concur. Windom, P.J., recuses herself.

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\*Retired Associate Justice Champ Lyons, Jr., was appointed on October 3, 2014, to be a Special Judge in regard to this appeal. See § 12-3-17, Ala. Code 1975.