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ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 2018-2019

CR-17-0797

Michael Lane Rains

v.

State of Alabama

Appeal from Marshall Circuit Court
(CC-14-715)

WINDOM, Presiding Judge.

AFFIRMED BY UNPUBLISHED MEMORANDUM.

Welch, Joiner, and McCool, JJ., concur. Kellum, J.,
concurrs specially, with opinion.

CR-17-0797

KELLUM, Judge, concurring specially.

For the reasons stated in my special concurrence in Smith v. State, [Ms. CR-17-0825, September 7, 2018] ___ So. 3d ___ (Ala. Crim. App. 2018), I concur with this Court's unpublished memorandum affirming the circuit court's denial of Michael Lane Rains's motion for immunity from prosecution on the basis that Rains's challenge to the circuit court's ruling on the motion for immunity was moot; however, I write specially to invite the legislature to consider amending § 13A-3-23(d), Ala. Code 1975, to include a right to appeal a circuit court's pretrial ruling on immunity.