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ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 2018-2019

CR-18-0126

Derrick Markeith Harris

v.

State of Alabama

Appeal from Coffee Circuit Court
(CC-17-45)

WINDOM, Presiding Judge.

AFFIRMED BY UNPUBLISHED MEMORANDUM.

McCool, Cole, and Minor, JJ., concur. Kellum, J.,
concurrs specially, with opinion.

CR-18-0126

KELLUM, Judge, concurring specially.

I concur with the conclusion reached by this Court in its unpublished memorandum that Derrick Markeith Harris waived his right to challenge the Coffee Circuit Court's adverse ruling on his motion for immunity because Harris did not raise this claim before trial and conviction by filing a petition for a writ of mandamus with this Court. 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 an immunity defense. See Smith v. State, [Ms. CR-17-0825, September 7, 2018] ___ So. 3d ___ (Ala. Crim. App. 2018) (Kellum, J., concurring specially).