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Alabama Court of Criminal Appeals

OCTOBER TERM, 2021-2022

CR-20-0985

Cecil Bernard Green

v.

State of Alabama

Appeal from Elmore Circuit Court
(CC-20-495)

PER CURIAM.

AFFIRMED BY MEMORANDUM.

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

CR-20-0985

KELLUM, Judge, concurring specially.

I concur with the conclusion reached by this Court that Cecil Bernard Green waived his right to challenge the Elmore Circuit Court's adverse ruling on his motion for immunity based on self-defense because Green did not challenge this ruling before he pleaded guilty 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, 279 So. 3d 1199 (Ala. Crim. App. 2018)(Kellum, J., concurring specially).