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ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 2011-2012

CR-05-1767

Kenneth Eugene Billups

v.

State of Alabama

**Appeal from Jefferson Circuit Court
(CC-05-1755)**

After Remand From The Alabama Supreme Court

BURKE, Judge.¹

¹This case was originally assigned to another member of this Court; it was reassigned to Judge Burke on February 19, 2011.

CR-05-1767

The Alabama Supreme Court in Ex parte Billups, [Ms. 1090554, December 30, 2010] ____ So. 3d ____ (Ala. 2010), reversed this Court's judgment affirming Kenneth Eugene Billups's conviction for capital murder, a violation of § 13A-5-40(a)(2), Ala. Code 1975, and his sentence of death. The Alabama Supreme Court determined that the trial court's jury instruction concerning the evidence of Billups's involvement in other murders was inadequate and erroneous. The Supreme Court concluded that the trial court's instruction as to this evidence amounted to plain error. Rule 45A, Ala. R. App. P. Therefore, that Court reversed our judgment and remanded the case to this Court with instructions that we remand it to the trial court for a new trial.

In accordance with the Alabama Supreme Court's decision, Billups's conviction is hereby reversed and the case remanded to the trial court with instructions that a new trial be granted.

REVERSED AND REMANDED.

Welch, P.J., and Windom, Kellum, and Joiner, JJ., concur.