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ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 2011-2012

CR-11-1050

Henry Clay Smith

v.

State of Alabama

Appeal from Morgan Circuit Court
(CC-95-310.64)

WINDOM, Presiding Judge.

AFFIRMED BY UNPUBLISHED MEMORANDUM.

Welch, J., concurs. Kellum, J., concurs specially, with opinion.

CR-11-1050

KELLUM, Judge, concurring specially.

I write specially to note that this action appears to be Henry Clay Smith's fifth Rule 32, Ala. R. Crim. P., petition challenging his 1995 convictions for attempted murder and first-degree assault and his resulting sentences of 99 years' imprisonment for each conviction. I believe that allowing Smith to file multiple petitions for postconviction relief in which his claims are either precluded or without merit wastes scarce judicial resources. Therefore, I would encourage the circuit court to consider adopting sanctions like those proposed in Peoples v. State, 531 So. 2d 323 (Ala. Crim. App. 1988), and Procup v. Strickland, 792 F.2d 1069 (11th Cir. 1986), to prevent future frivolous litigation on the part of Smith and other similarly situated inmates. See Ex parte Thompson, 38 So. 3d 119 (Ala. Crim. App. 2009).