

IN THE ALABAMA COURT OF THE JUDICIARY

IN THE MATTER OF: *
*
TRACIE TODD *
CIRCUIT COURT JUDGE *
BIRMINGHAM DIVISION *
CRIMINAL DIVISION *
JEFFERSON COUNTY, AL *

CASE NO. 61

FILED

JUL - 7 2022

ALABAMA COURT OF THE JUDICIARY
Nathan P. Wilson
Secretary

**JUDICIAL INQUIRY COMMISSION'S RESPONSE IN
OPPOSITION TO MOTION TO STAY PROCEEDINGS**

COMES NOW, the Judicial Inquiry Commission (hereinafter “the Commission”) and hereby files this Response in Opposition to Judge Tracie A. Todd’s Motion to Stay Proceedings. The Commission objects to Judge Todd’s motion and moves this Court to deny it because a stay would be inappropriate in this case, and Judge Todd has cited no authority of any kind to suggest otherwise. As grounds for its opposition and motion to deny Judge Todd’s Motion to Stay Proceedings, the Commission states as follows:

1. “The filing of a petition for a writ of mandamus against a trial judge does not divest the trial court of jurisdiction, stay the case, or toll the running of any period for obeying an order.” State v. Webber, 892 So. 2d 869, 871 (Ala. 2004) (cleaned up). Rather, a “petition for a writ of

mandamus, if meritorious, merely prompts the appellate court to exercise its supervisory power to tell the trial judge, as an official, as distinguished from the trial court itself, to do his or her duty when that duty is so clear that there are no two ways about it.” Id. (cleaned up).

2. If a petitioner wants the Alabama Supreme Court to order a stay while it considers the mandamus petition, then “the petitioner should move to stay the underlying proceedings when seeking a writ of mandamus in a higher court.” State v. Utley, 94 So. 3d 414, 416 (Ala. Crim. App. 2012). “If the petitioner does not ask [the Supreme] Court to stay the lower court proceedings, the trial court” retains jurisdiction and may proceed. Ex parte McDaniel, 291 So. 3d 847, 851 n.2 (Ala. 2019).

3. As can be seen in her Petition for Writ of Mandamus,¹ Judge Todd did not ask the Supreme Court to stay these proceedings. Rather, she asks the Supreme Court to “ORDER the members of the Court of the Judiciary (with the exclusion of Judge Kelly) to RECUSE themselves from her case, or in the alternative, to ORDER the members of the Court

¹ It is unclear whether this Court and the respondent members of this Court were properly served with the Petition for Writ of Mandamus. See Alabama Rules of Appellate Procedure, Rule 21(a)(1) (“certificate of service on the respondent judge or judges” is required when filing a petition for writ of mandamus).

of the Judiciary to provide an explanation for their denials of the motion to recuse.” Pet. at 25–26. Nowhere in her mandamus petition is the word “stay” even mentioned.²

4. Judge Todd did not ask the Alabama Supreme Court to stay this Court’s proceedings. And to date, the Supreme Court has taken no action on the mandamus petition. Unless and until something changes, this Court should proceed as scheduled.

5. This is the most sensible course. Otherwise, litigants would be able to achieve delay in any case, at any time, for any reason, by the mere filing of a mandamus petition. That tactic should not be countenanced, particularly in this Court.³

6. Also, Judge Todd has provided this Court with nothing new that would justify a stay. Her Motion to Stay Proceedings includes no case law or authority of any kind indicating that a stay would be appropriate in this case.

² See also Ex parte Spencer, 111 So. 3d 713, 716 (Ala. 2012) (trial court retained jurisdiction because petitioners did not ask the Supreme Court for a stay); Ex parte King, 50 So. 3d 1056, 1058 (Ala. 2010) (same); Ex parte Se. Energy Corp., 203 So. 3d 1207, 1212 (Ala. 2016) (same).

³ See Rule 7, R. P. Ala. Ct. Jud. (“Dilatory motions will be treated with disfavor.”); Ala. Const. art. VI, § 159.

7. And her arguments are largely identical to those already rejected by this Court. Indeed, most of the arguments in Judge Todd’s mandamus petition are taken verbatim from her Motion for Recusal. She fails to address or even acknowledge most of the law cited and arguments made in the Commission’s Response in Opposition to Motion for Recusal.

8. The one new complaint is that the members of this Court denied her Motion for Recusal “without any explanation.” Mot. at 2; see also Pet. at 2, 3, 6, 26. Yet, Judge Todd cites no law of any kind to suggest that she is entitled to the type of detailed explanation she desires.

9. Indeed, the law indicates exactly the opposite.⁴ This, too, is sensible. Otherwise, litigants could force judges to waste time writing comprehensive denials of motions—even frivolous motions—by merely engaging in an endless string of court filings.

10. In fact, Judge Todd is (or should be) well aware that a detailed explanation of the rationale for denial is not required in an order denying a motion to recuse. In COJ No. 58, an assortment of Judge Todd’s orders

⁴ See Ex parte Rogers, 218 So. 3d 859, 862 (Ala. Civ. App. 2016) (motion for recusal denied “without any explanation”; mandamus petition denied); cf. Ex parte Terminix Int’l Co., LP, 325 So. 3d 800, 803 (Ala. 2020) (“trial court denied the motion to disqualify without stating its rationale”; mandamus petition denied).

denying motions to recuse were included in exhibits, all of which dispensed with the motions using the same “non-descript boilerplate” she objects to here. Pet. at 3. See Exhibit A.⁵

11. Not only is a detailed explanation not required, but the Supreme Court will not overrule a “trial court’s judgment” if it is “correct for any reason,” even if the trial court “gave no reason at all.” Jackson v. Geneva Cnty. Bd. of Educ., 160 So. 3d 1221, 1224 (Ala. Civ. App. 2013) (quoting Morrison v. Franklin, 655 So. 2d 964, 966 (Ala. 1995)).

12. It was Judge Todd’s burden⁶ to sufficiently explain and allege substantial facts that, if true, require recusal. It was not this Court’s burden to offer a thorough justification for denial of the motion.

WHEREFORE, premises considered, because a stay would be inappropriate in this case and because Judge Todd has cited no authority of any kind to suggest otherwise, the Commission respectfully requests that this Honorable Court deny the Motion to Stay Proceedings.

⁵ JIC Ex. 55 was admitted into evidence. JIC Ex. 53 was not. But both were provided to Judge Todd in discovery.

⁶ And that burden is a “heavy” one. Otwell v. Bryant, 497 So. 2d 111, 119 (Ala. 1986). See also Commission’s Response in Opposition to Motion for Recusal at 4–8.

Respectfully submitted this the 7th day July, 2022.

/s/ John A. Selden

John A. Selden

/s/ Elizabeth C. Bern

Elizabeth C. Bern

/s/ Jacob D. Jackson

Jacob D. Jackson

Attorneys for the Commission

Alabama Judicial Inquiry Commission

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(334) 242-4089

CERTIFICATE OF SERVICE

I hereby certify that I have, on this 7th day of July, 2022, electronically filed the foregoing with the Court of the Judiciary, and that I have further served a copy upon the following via email as follows:

Richard A. Rice, Esq.
The Rice Firm, LLC
115 Richard Arrington Jr. Blvd. N.
Birmingham, AL 35203
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(571) 207-9710

/s/ John A. Selden

John A. Selden

Attorney for the Commission

Exhibit A



ELECTRONICALLY FILED
12/14/2017 1:24 PM
01-CC-2016-001954.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

STATE OF ALABAMA

V.

KEETH DOMINIC
Defendant.

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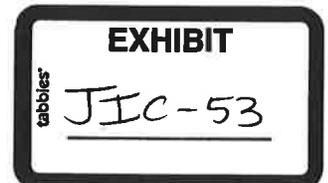
Case No.: CC-2016-001954.00

ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 14th day of December, 2017.

/s/ T. TODD
CIRCUIT JUDGE





**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

STATE OF ALABAMA

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V.

)

) Case No.: CC-2017-000424.00

)

DEDRICK DEJUAN

)

Defendant.

)

ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 15th day of December, 2017.

/s/ T. TODD

CIRCUIT JUDGE



ELECTRONICALLY FILED
12/12/2017 12:28 PM
01-CC-2017-000429.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

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| STATE OF ALABAMA |) | |
| |) | |
| V. |) | Case No.: CC-2017-000429.00 |
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| RIGGS ANTUAN CORNELL |) | |
| Defendant. |) | |

ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 12th day of December, 2017.

/s/ T. TODD
CIRCUIT JUDGE



ELECTRONICALLY FILED
12/15/2017 10:32 AM
01-CC-2017-000425.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

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| STATE OF ALABAMA |) | |
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| V. |) | Case No.: CC-2017-000425.00 |
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| RIGGS ANTAUREAN MARKESE |) | |
| Defendant. |) | |

ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 15th day of December, 2017.

/s/ T. TODD

CIRCUIT JUDGE



ELECTRONICALLY FILED
12/12/2017 12:27 PM
01-CC-2017-002844.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

STATE OF ALABAMA

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V.

)

) Case No.: CC-2017-002844.00

)

EDWARDS ZACHARY

)

Defendant.

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ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 12th day of December, 2017.

/s/ T. TODD

CIRCUIT JUDGE



ELECTRONICALLY FILED
12/12/2017 12:26 PM
01-CC-2017-002946.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

STATE OF ALABAMA

V.

NICHOLS WENDELL ROY JR
Defendant.

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Case No.: CC-2017-002946.00

ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 12th day of December, 2017.

/s/ T. TODD

CIRCUIT JUDGE



ELECTRONICALLY FILED
12/12/2017 12:28 PM
01-CC-2017-000427.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

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| STATE OF ALABAMA |) | | |
| |) | | |
| V. |) | Case No.: | CC-2017-000427.00 |
| |) | | |
| GADSON STEPHEN LAMAR |) | | |
| Defendant. |) | | |

ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 12th day of December, 2017.

/s/ T. TODD
CIRCUIT JUDGE



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

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| STATE OF ALABAMA |) | |
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| V. |) | Case No.: CC-2017-000462.00 |
| |) | |
| GRIMES RODARIUS |) | |
| Defendant. |) | |

ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 14th day of December, 2017.

/s/ T. TODD
CIRCUIT JUDGE



ELECTRONICALLY FILED
12/12/2017 12:27 PM
01-CC-2017-002841.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

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| STATE OF ALABAMA |) | | |
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| V. |) | Case No.: | CC-2017-002841.00 |
| |) | | |
| DILLIGARD RAPHEL MAURIE |) | | |
| Defendant. |) | | |

ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 12th day of December, 2017.

/s/ T. TODD
CIRCUIT JUDGE



ELECTRONICALLY FILED
12/12/2017 12:27 PM
01-CC-2017-002842 00
CIRCUIT COURT OF
JEFFERSON COUNTY, AL
600 WARE STREET, BIRMINGHAM, AL 35202

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION

STATE OF ALABAMA

v.

DILLIGARD RAPHAEL MAURIE
Defendant

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Case No. CC-2017-002842 00

ORDER

MOTION TO REVOKE filed by STATE OF ALABAMA is hereby **DENIED**

DONE this 12th day of December, 2017.

W. T. TODD
CIRCUIT JUDGE



ELECTRONICALLY FILED
12/12/2017 12:27 PM
01 CC-2017-002843-00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION

STATE OF ALABAMA

)

v.

)

Case No: CC-2017-002843-00

)

DILLIGARD RAPHEL MAURIE
Defendants.

)

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ORDER

MOTION TO RECALL filed by STATE OF ALABAMA is hereby DENIED.

DONE this 12th day of December, 2017.

/s/ T. TODD
CIRCUIT JUDGE



ELECTRONICALLY FILED
12/12/2017 12:26 PM
01-CC-2017-002848.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

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| STATE OF ALABAMA |) | | |
| |) | | |
| V. |) | Case No.: | CC-2017-002848.00 |
| |) | | |
| NICHOLS QUINESE NICOLE |) | | |
| Defendant. |) | | |

ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 12th day of December, 2017.

/s/ T. TODD
CIRCUIT JUDGE



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

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| STATE OF ALABAMA |) | |
| |) | |
| V. |) | Case No.: CC-2016-002727.00 |
| |) | |
| NICHOLSON MELVIN |) | |
| Defendant. |) | |

ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 14th day of December, 2017.

/s/ T. TODD
CIRCUIT JUDGE



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

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| STATE OF ALABAMA |) | |
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| V. |) | Case No.: CC-2017-002381.00 |
| |) | |
| FAIRLEY ANTHONY JR |) | |
| Defendant. |) | |

ORDER

AMENDED MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 15th day of December, 2017.

/s/ T. TODD

CIRCUIT JUDGE



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

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| STATE OF ALABAMA |) | |
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| V. |) | Case No.: CC-2017-000437.00 |
| |) | |
| FLETCHER HORAYSHIO J |) | |
| Defendant. |) | |

ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 14th day of December, 2017.

/s/ T. TODD
CIRCUIT JUDGE



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

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| STATE OF ALABAMA |) | |
| |) | |
| V. |) | Case No.: CC-2016-001955.00 |
| |) | |
| SPENCER KHALIEF MARQUISE |) | |
| Defendant. |) | |

ORDER

MOTION TO RECUSE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 14th day of December, 2017.

/s/ T. TODD

CIRCUIT JUDGE



ELECTRONICALLY FILED
3/5/2018 3:26 PM
01-CC-2016-002727.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

STATE OF ALABAMA

V.

NICHOLSON MELVIN
Defendant.

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Case No.: CC-2016-002727.00

ORDER

RENEWED MOTINO TO RECUSE & MOTION TO CONTINUE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 5th day of March, 2018.

/s/ T. TODD
CIRCUIT JUDGE





**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

STATE OF ALABAMA

V.

FLETCHER HORAYSHIO J
Defendant.

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Case No.: CC-2017-000437.00

ORDER

RENEWED MOTINO TO RECUSE & MOTION TO CONTINUE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 26th day of April, 2018.

/s/ T. TODD
CIRCUIT JUDGE



ELECTRONICALLY FILED
1/29/2018 5:19 PM
01-CC-2017-000427.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION

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|----------------------|---|-----------------------------|
| STATE OF ALABAMA |) | |
| |) | |
| V. |) | Case No.: CC-2017-000427.00 |
| |) | |
| GADSON STEPHEN LAMAR |) | |
| Defendant. |) | |

ORDER

RENEWED MOTINO TO RECUSE & MOTION TO CONTINUE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 29th day of January, 2018.

/s/ T. TODD
CIRCUIT JUDGE



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

STATE OF ALABAMA

)

V.

)

) Case No.: CC-2017-000424.00

DEDRICK DEJUAN

)

Defendant.

)

ORDER

RENEWED MOTINO TO RECUSE & MOTION TO CONTINUE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 29th day of January, 2018.

/s/ T. TODD

CIRCUIT JUDGE



ELECTRONICALLY FILED
1/29/2018 5:19 PM
01-CC-2017-000425.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

STATE OF ALABAMA

V.

RIGGS ANTAUREAN MARKESE
Defendant.

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)

Case No.: CC-2017-000425.00

ORDER

RENEWED MOTINO TO RECUSE & MOTION TO CONTINUE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 29th day of January, 2018.

/s/ T. TODD
CIRCUIT JUDGE



ELECTRONICALLY FILED
5/3/2018 9:11 AM
01-CC-2016-001955.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
ANNE-MARIE ADAMS, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION

| | | | |
|--------------------------|---|-----------|-------------------|
| STATE OF ALABAMA |) | | |
| |) | | |
| V. |) | Case No.: | CC-2016-001955.00 |
| |) | | |
| SPENCER KHALIEF MARQUISE |) | | |
| Defendant. |) | | |

ORDER

RENEWED MOTINO TO RECUSE & MOTION TO CONTINUE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 3rd day of May, 2018.

/s/ T. TODD
CIRCUIT JUDGE



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

| | | |
|------------------------|---|-----------------------------|
| STATE OF ALABAMA |) | |
| |) | |
| V. |) | Case No.: CC-2017-002946.00 |
| |) | |
| NICHOLS WENDELL ROY JR |) | |
| Defendant. |) | |

ORDER

RENEWED MOTION TO RECUSE & MOTION TO CONTINUE filed by STATE OF ALABAMA is hereby DENIED.

DONE this 7th day of February, 2018.

/s/ T. TODD

CIRCUIT JUDGE