

REL: 08-19-2011

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SUPREME COURT OF ALABAMA

SPECIAL TERM, 2011

1091045

Ex parte State of Alabama

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF CRIMINAL APPEALS

(In re: Thomas Robert Lane

v.

State of Alabama)

(Mobile Circuit Court, CC-05-1499;
Court of Criminal Appeals, CR-05-1443)

On Application for Rehearing

PER CURIAM.

1091045

APPLICATION FOR REHEARING GRANTED; OPINION OF MAY 27,
2011, WITHDRAWN; WRIT QUASHED.

Malone, C.J., and Woodall, Bolin, Parker, and Murdock,
JJ., concur.

Stuart, J., dissents.

Shaw, Main, and Wise, JJ., recuse themselves.*

*Justice Shaw, Justice Main, and Justice Wise were
members of the Court of Criminal Appeals when that court
considered this case.

1091045

STUART, Justice (dissenting).

I respectfully dissent from the Court's decision to grant Thomas Robert Lane's application for rehearing and to withdraw the opinion issued on May 27, 2011, and quash the writ. I disagree with the decision of the Court of Criminal Appeals that the trial court erred in removing Lane's appointed counsel. I believe that the record will reflect that a conflict of interest or the potential for a conflict of interest existed and that the trial court properly granted the State's motion to dismiss Lane's appointed counsel. Moreover, if I were to determine that the trial court erred in dismissing Lane's appointed counsel, I would conclude that the error was not structural. The proper inquiry is whether the indigent defendant suffered prejudice by the erroneous removal of court-appointed counsel. Cf. State v. Reeves, 11 So. 3d 1031 (La. 2009); Daniels v. Lafler, 501 F.3d 735, 740 (6th Cir. 2007); and United States v. Basham, 561 F.3d 302 (4th Cir. 2009).