

No. \_\_\_\_\_

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IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2025

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GREGORY WYNN,

Petitioner,

v.

STATE OF ALABAMA,

Respondent.

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APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT  
OF CERTIORARI TO THE ALABAMA COURT OF CRIMINAL APPEALS

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TO THE HONORABLE CLARENCE THOMAS, Associate Justice of the  
Supreme Court of the United States, and Circuit Justice for the Eleventh Circuit:

Petitioner Gregory Wynn, by and through undersigned counsel and pursuant to Supreme Court Rule 13, respectfully requests an extension of time of thirty (30) days to file his Petition for Writ of Certiorari in this Court. Wynn seeks review of the decision of the Alabama Court of Criminal Appeals affirming the denial of post-conviction relief in his life-without-parole case.

Wynn invokes the jurisdiction of this Court pursuant to 28 U.S.C. § 1257(a). His time to file a Petition for Writ of Certiorari in this Court elapses on April 9, 2026; therefore, he makes this request more than ten (10) days before the date his petition would be due without an extension of time. In support of this request, Wynn shows the following as good cause:

In 1999, Wynn was convicted of capital murder and sentenced to death in Calhoun County, Alabama, for an offense that occurred when he was a child. He was later resentenced to life without the possibility of parole under *Roper v. Simmons*, 543 U.S. 551 (2005), and then granted a resentencing proceeding under *Miller v. Alabama*, 567 U.S. 460 (2012), and *Montgomery v. Louisiana*, 577 U.S. 190 (2016). On February 27, 2020, the Calhoun County Circuit Court imposed a sentence of life imprisonment without the possibility of parole. The Alabama Court of Criminal Appeals affirmed his sentence. *Wynn v. State*, 354 So. 3d 1007 (Ala. Crim. App. 2021). The Alabama Supreme Court denied certiorari, *id.*, as did this Court, *Wynn v. Alabama*, 142 S. Ct. 2756 (2022) (mem.).

On November 17, 2022, Wynn petitioned for post-conviction relief from his life-without-parole sentence pursuant to Rule 32 of the Alabama Rules of Criminal Procedure. After an evidentiary hearing on January 29, 2024, the circuit court denied relief. On appeal, the Alabama Court of Criminal Appeals affirmed the

denial of relief. *See* Appendix A (*Wynn v. State*, CR-2024-0155 (Ala. Crim. App. Sept. 19, 2025)). The Alabama Court of Criminal Appeals then denied rehearing, *see* Appendix B (*Wynn v. State*, CR-2024-0155 (Nov. 21, 2025)), and the Alabama Supreme Court denied certiorari, *see* Appendix C (*Wynn v. State*, SC-2025-0931 (Ala. Jan. 9, 2026)).

A petition for certiorari in this case is essential because Wynn is under a life-without-parole sentence and his post-conviction case implicates serious issues of federal constitutional law. Undersigned counsel respectfully request this extension of time because of the importance of the issues in this case and counsel's obligations in other cases. With an extension of thirty (30) days, undersigned counsel are confident that they can present the relevant issues to this Court.

THEREFORE, Wynn respectfully requests that this Court grant him a thirty (30) day extension of time within which to file his petition for a writ of certiorari, up to and including May 11, 2026.

Respectfully submitted, this 18th day of March, 2026.

/s/ Patrick Mulvaney

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# APPENDIX A

Rel: September 19, 2025  
Corr: October 20, 2025

Notice: This unpublished memorandum should not be cited as precedent. See Rule 54, Ala. R. App. P. Rule 54(d) states, in part, that this memorandum "shall have no precedential value and shall not be cited in arguments or briefs and shall not be used by any court within this state, except for the purpose of establishing the application of the doctrine of law of the case, res judicata, collateral estoppel, double jeopardy, or procedural bar."

# ALABAMA COURT OF CRIMINAL APPEALS

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CR-2024-0155

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Gregory Renard Wynn v. State of Alabama

Appeal from Calhoun Circuit Court  
(CC-98-934.61)

## **MEMORANDUM DECISION**

### **On Application for Rehearing**

MINOR, Judge.

This Court's memorandum decision of June 20, 2025, is withdrawn, and this memorandum is substituted in its place.

In this appeal, we consider Gregory Renard Wynn's argument that the Calhoun Circuit Court erred in denying his petition for postconviction relief under Rule 32, Ala. R. Crim. P., in which Wynn, again, sought resentencing for his 1999 convictions for two counts of capital murder.

For the reasons below, we affirm the judgment of the circuit court.

## FACTS AND PROCEDURAL HISTORY

A jury convicted Wynn in 1999 of two counts of murder made capital because the murder was committed during a robbery, see § 13A-5-40(a)(2), Ala. Code 1975, and two counts of murder made capital because the murder was committed during a burglary, see § 13A-5-40(a)(4), Ala. Code 1975. The trial court, following the jury's unanimous recommendation, sentenced Wynn to death.

On direct appeal, this Court remanded the matter for the trial court to vacate, on double-jeopardy grounds, one of Wynn's capital-murder-robbery convictions and one of his capital-murder-burglary convictions and to correct errors in its sentencing order. On return to remand, this Court affirmed Wynn's convictions on the other two counts of capital murder and his sentence of death. Wynn v. State, 804 So. 2d 1122 (Ala. Crim. App. 2000).<sup>1</sup>

In 2003, Wynn filed his first petition for postconviction relief under Rule 32, Ala. R. Crim. P. While that petition was pending, the United

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<sup>1</sup>"[T]his Court may take judicial notice of its own records." See Nettles v. State, 731 So. 2d 626, 629 (Ala. Crim. App. 1998) (citing Hull v. State, 607 So. 2d 369, 371 n.1 (Ala. Crim. App. 1992)).

States Supreme Court decided Roper v. Simmons, 543 U.S. 551 (2005).

The circuit court then resentenced Wynn, who was 17 years old at the time of the offenses, to life imprisonment without the possibility of parole.

Wynn's petition was still pending in 2012 when the United States Supreme Court decided Miller v. Alabama, 567 U.S. 460 (2012), which held unconstitutional a mandatory sentence of life imprisonment without the possibility of parole for individuals who were under 18 years old at the time of the offenses. Wynn amended his Rule 32 petition to include a claim based on Miller. The circuit court denied the petition.

On appeal, this Court affirmed all claims but the circuit court's denial of Wynn's claim based on Miller. Because the United States Supreme Court had held in Montgomery v. Louisiana, 577 U.S. 190 (2016), that the rule in Miller applied retroactively on collateral review, we remanded the matter for the circuit court to vacate Wynn's sentence and to conduct a resentencing hearing. Wynn v. State, 246 So. 3d 163 (Ala. Crim. App. 2016). The circuit court held a Miller resentencing hearing and again sentenced Wynn to life imprisonment without the possibility of parole. This Court affirmed the circuit court's judgment. Wynn v. State, 354 So. 3d 1007 (Ala. Crim. App. 2021). Both the Alabama

Supreme Court and the United States Supreme Court denied Wynn's petitions for a writ of certiorari.

In November 2022—less than six months after the United States Supreme Court had denied Wynn's certiorari petition—Wynn, through counsel, filed this Rule 32 petition.<sup>2</sup> (C. 12.) In the petition, Wynn again asserted that his sentence was unconstitutional. In support, he asserted that he had "newly discovered evidence" in the form of "statistics" showing that Alabama is an "outlier" among states in sentencing defendants who committed offenses as juveniles to life in prison without the possibility of parole. The State responded and moved to dismiss the petition, arguing that the petition was untimely, that the claim in the petition was precluded because it had been raised at trial and on appeal,

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<sup>2</sup>The circuit court granted Wynn's request to proceed in forma pauperis. (C. 71.) The record shows, however, that Wynn had deposits of \$1,891 in his inmate account in the 12 months before he filed his IFP request. (C. 10.) The record does not show how much the filing fee for a postconviction petition is in the Calhoun Circuit Court, but if \$1,891 was "appreciably more than the amount necessary to pay [the] filing fee," the circuit court would not have abused its discretion if it had denied his IFP request. See Ex parte Wyre, 74 So. 3d 479, 483 (Ala. Crim. App. 2011) ("[A]n inmate who has appreciably more than the amount necessary to pay a filing fee deposited in his inmate account in the 12 months preceding the filing of an [in forma pauperis] request is not indigent as that term is defined in Rule 6.3(a), Ala. R. Crim. P.").

that the petition was successive, and that the claim was not based on newly discovered evidence.

The circuit court held a hearing on the petition at which Wynn offered as evidence testimony about the law and practices of other states after the decisions in Miller and Montgomery.<sup>3</sup> After the hearing, the circuit court denied the petition. The court found that "the information presented was largely cumulative" to what Wynn had presented at his

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<sup>3</sup>The circuit court summarized the testimony at the hearing:

"Dr. Ashley Nellis, from The Sentencing Project, testified that six states have legislatively banned life without parole for juvenile offenders since [Wynn's] resentencing hearing held in 2020. Additionally, five states do not currently have anyone that committed a crime while a juvenile serving a life without parole sentence. Currently in total there are [35] jurisdictions that have either legislatively banned juvenile life without parole or that have no one serving [such a] sentence ....

"Rebecca Turner, from The Campaign for the Fair Sentencing of Youth, testified that her organization had conducted extensive research and had compiled data on every person currently serving a sentence of life in prison without the possibility of parole imposed for a crime that was committed when they were a juvenile. Ms. Turner testified that 2,507 individuals had been resentenced pursuant to the Miller decision and that only [88] were resentenced to life without the possibility of parole."

(C. 158.)

2020 Miller hearing and that the judge's decision at that hearing would have been no different with the "new" information. The court also reiterated this Court's statement in our 2021 opinion: "[T]he fact that ... other states have banned a sentence of life imprisonment without the possibility of parole for juvenile offenders does not render such a sentence unconstitutional under the Eighth Amendment." Wynn, 354 So. 3d at 1017.

Wynn moved for reconsideration, and that motion was denied by operation of law. Wynn timely appealed.

## DISCUSSION

On appeal, Wynn reiterates his assertion that his sentence is unconstitutional, and he cites "evolving standards of decency, as reflected by sentencing practices across the country." (Wynn's brief, p. 23.)

Wynn's claim that his sentence is unconstitutional is, as the State argued, precluded because Wynn has already raised it in his trial proceedings and in his first Rule 32 proceedings.<sup>4</sup>

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<sup>4</sup>Although the circuit court did not expressly find the Rule 32.1(a) claim precluded, it could have done so based on the State's argument in its answer. The circuit court found "the information presented was largely cumulative to the information presented at the resentencing hearing." (C. 158.)

To the point that Wynn asserted his claim as one based on newly discovered evidence under Rule 32.1(e), Ala. R. Crim. P., it lacks merit.

Rule 32.1(e), Ala. R. Crim. P., provides:

"Subject to the limitations of Rule 32.2, any defendant who has been convicted of a criminal offense may institute a proceeding in the court of original conviction to secure appropriate relief on the ground that:

"....

"Newly discovered material facts exist which require that the conviction or sentence be vacated by the court, because:

"(1) The facts relied upon were not known by the petitioner or the petitioner's counsel at the time of trial or sentencing or in time to file a posttrial motion pursuant to Rule 24, or in time to be included in any previous collateral proceeding and could not have been discovered by any of those times through the exercise of reasonable diligence;

"(2) The facts are not merely cumulative to other facts that were known;

"(3) The facts do not merely amount to impeachment evidence;

"(4) If the facts had been known at the time of trial or of sentencing, the result probably would have been different; and

"(5) The facts establish that the petitioner is innocent of the crime for which the petitioner was convicted or should not have received the sentence that the petitioner received."

Simply put, the law or practice of other states is not newly discovered evidence that gives a petitioner a right to relief under Rule 32.1(e), Ala. R. Crim. P. Wynn's sentence is not unconstitutional. See, e.g., Jones v. Mississippi, 593 U.S. 98 (2021).

## CONCLUSION

The circuit court's judgment is affirmed.

APPLICATION OVERRULED; UNPUBLISHED MEMORANDUM OF JUNE 20, 2025, WITHDRAWN; MEMORANDUM SUBSTITUTED; AFFIRMED.

Kellum and Cole, JJ., concur. Windom, P.J.,\* and Anderson, J., recuse themselves.

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\*On original submission, Presiding Judge Windom concurred in this Court's judgment despite having earlier recused herself from this matter. On rehearing, Presiding Judge Windom has again recused herself, and, out of an abundance of caution, this Court has reconsidered this matter in its entirety and issued a new decision without any participation from Presiding Judge Windom. Cf. Williams v. Pennsylvania, 579 U.S. 1, 16 (2016) ("Allowing an appellate panel to reconsider a case without the participation of the interested member will permit judges to probe lines of analysis or engage in discussions they may have felt constrained to avoid in their first deliberations.").

# APPENDIX B

# ALABAMA COURT OF CRIMINAL APPEALS



November 21, 2025

**CR-2024-0155**

Gregory Renard Wynn v. State of Alabama (Appeal from Calhoun Circuit Court:  
CC-98-934.61)

## **NOTICE**

You are hereby notified that on November 21, 2025, the following action was taken in the above-referenced cause by the Court of Criminal Appeals:

Application for Rehearing Overruled.

A handwritten signature in black ink that reads "Scott Mitchell". The signature is written in a cursive style.

D. Scott Mitchell, Clerk

# APPENDIX C

# IN THE SUPREME COURT OF ALABAMA



January 9, 2026

**SC-2025-0931**

Ex parte Gregory Wynn PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Gregory Renard Wynn v. State of Alabama) (Calhoun Circuit Court: CC-98-934.61; Criminal Appeals: CR-2024-0155).

## **CERTIFICATE OF JUDGMENT**

WHEREAS, the petition for writ of certiorari in the above referenced cause has been duly submitted and considered by the Supreme Court of Alabama and the judgment indicated below was entered in this cause on January 9, 2026:

**Writ Denied. No Opinion.** Parker, J. -- Stewart, C.J., and Wise, Sellers, and Cook, JJ., concur.

NOW, THEREFORE, pursuant to Rule 41, Ala. R. App. P., IT IS HEREBY ORDERED that this Court's judgment in this cause is certified on this date. IT IS FURTHER ORDERED that, unless otherwise ordered by this Court or agreed upon by the parties, the costs of this cause are hereby taxed as provided by Rule 35, Ala. R. App. P.

I, Megan B. Rhodebeck, certify that this is the record of the judgment of the Court, witness my hand and seal.

*Megan B. Rhodebeck*

Clerk, Supreme Court of Alabama

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing on counsel for the State of Alabama by e-mail and by placing a copy of same in the United States Mail, First Class Postage pre-paid and addressed as follows:

Attorney General Steve Marshall  
Assistant Attorney General Stephen Dodd  
Office of the Attorney General  
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501 Washington Avenue  
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Dated: This 18th day of March, 2026.

/s/ Patrick Mulvaney  
Patrick Mulvaney