

Billy PHILLIPS and Tina Phillips v. ARKANSAS
DEPARTMENT of HUMAN SERVICES

CA 98-1274

980 S.W.2d 276

Court of Appeals of Arkansas

Opinion delivered December 9, 1998

1. MOTIONS — MOTION TO PROCEED *IN FORMA PAUPERIS* GRANTED. — Appellants' motion to proceed *in forma pauperis* was granted; in granting the motion, however, the appellate court did not grant attorney's fees.
2. ATTORNEY & CLIENT — ATTORNEY'S FEES IN APPEAL FROM JUVENILE COURT DENIED — NO AUTHORITY CITED IN SUPPORT OF GRANTING. — The supreme court has refused to allow attorney's fees where an appellant failed to cite any authority in support of the petition for such fees in an appeal from juvenile court.
3. ATTORNEY & CLIENT — INDIGENT CRIMINAL DEFENDANTS' PAYMENT OF ATTORNEY'S FEES MANDATED. — Payment of reasonable

attorney's fees for attorneys appointed to represent indigent criminal defendants has been mandated.

4. APPEAL & ERROR — JUVENILE CODE REQUIRES APPOINTMENT OF COUNSEL — DETERMINATION WHETHER ATTORNEYS WILL BE PAID FOR APPELLATE REPRESENTATION OF INDIGENT PARENTS LEFT TO SUPREME COURT. — The juvenile code requires an appointment of counsel in termination cases; only the supreme court can give guidance to attorneys regarding whether or not they will be paid for their appellate representation of indigent parents who lose their parental rights.

Motion to Proceed *In Forma Pauperis*; granted.

Christine Horwart, for appellants.

No response.

PER CURIAM. [1-4] We hereby grant the motion of the appellants to proceed *in forma pauperis* and write simply to say that by granting the motion, we are not granting attorney fees. In *Webber v. Arkansas Dept. of Human Services*, 334 Ark. 527, 975 S.W. 2d 829 (1998), the supreme court refused to allow attorney fees because the appellant in that case failed to cite any authority in support of the petition for attorney fees in an appeal from juvenile court. We would, of course, follow its mandate. However, the decision in *Post v. State*, 311 Ark. 510, 845 S.W. 2d 487 (1993), a case involving attorney fees for indigent criminal defendants, mandated payment of reasonable attorney fees for appointed attorneys in criminal cases. Though the nature of the proceedings is different, i.e., one is criminal and one civil, the juvenile code requires an appointment of counsel in termination cases. The cases appear in conflict and only the Supreme Court can give guidance to attorneys as to whether or not they will be paid for their appellate representation of indigent parents who lose their parental rights.