

Wayne FULCHER v. STATE of Arkansas

CR. 01-353

42 S.W.3d 406

Supreme Court of Arkansas
Opinion delivered April 19, 2001

ATTORNEY & CLIENT — PETITION TO WITHDRAW GRANTED — SUBSTITUTED COUNSEL APPOINTED. — Where, as a state-salaried, part-time public defender, counsel was ineligible for compensation by the supreme court for work performed in the appeal of this matter, the supreme court granted counsel's motion to be relieved for good cause shown and substituted another attorney.

Petition to Withdraw granted; Substituted Counsel appointed.

Dan Etherly, for appellant.

No response.

PER CURIAM. Don Etherly, a state-salaried, part-time public defender for the First Judicial District, was appointed by the trial court to represent appellant Wayne Fulcher, an indigent defendant, in this criminal case. Following a revocation hearing on February 9, 2001, the circuit court revoked a suspended imposition of sentence on a charge of theft of property and sentenced Mr. Fulcher to ten years in the Arkansas Department of Correction. A notice of appeal from the judgment of conviction was timely filed and a partial record has been lodged with our clerk.

[1] Mr. Etherly now asks this court to relieve him as counsel for Mr. Fulcher in this criminal appeal. As a state-salaried, part-time public defender for the First Judicial District, Mr. Etherly is ineligible for compensation by this court for work performed in the appeal of this matter pursuant to our opinion in *Rushing v. State*, 340 Ark. 84, 8 S.W.3d 489 (2000). In *Tester v. State*, 341 Ark. 281, 16 S.W.3d 227 (2000), we relieved appellant's court-appointed public defender and appointed new counsel on appeal under similar circumstances. See also, *Craft v. State*, 342 Ark. 57, 26 S.W.3d 584 (2000); *McFerrin v. State*, 342 Ark. 61, 26 S.W.3d 429 (2000); *Bolton v. State*, 342 Ark. 55, 26 S.W.3d 783 (2000). We grant Mr. Etherly's motion to be relieved for good cause shown. Kelly Adkins will be substituted as attorney for appellant Wayne Fulcher in this matter.