

Dominic SIMPSON *v.* STATE of Arkansas

CR 01-684

48 S.W.3d 533

Supreme Court of Arkansas
Opinion delivered July 9, 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.

Motion to Withdraw as Attorney on Direct Appeal; granted.

Ann C. Hill and *Mark S. Frasier*, for appellant.

No response.

PER CURIAM. Anne C. Hill and Mark S. Frasier, state-salaried public defenders, move to withdraw as appointed counsel for appellant Dominic Simpson. The Office of the Public Defender for the Eighteenth Judicial District East, was appointed by the trial court to represent appellant Dominic Simpson, an indigent defendant, on a charge of first-degree murder. Steve Oliver, Deputy Public Defender, represented Simpson throughout all proceedings below, including trial. On December 6, 2000, Simpson was convicted of the charge and sentenced to 480 months in the Arkansas Department of Corrections. Her appointed counsel, Oliver, was subsequently sworn in as prosecuting attorney for Garland County.

A notice of appeal was timely filed on January 3, 2001. Counsel for Simpson then made an untimely tender of the record on April 4, 2001. Our clerk directed appointed counsel to file a motion for Rule on the clerk in order to be granted a belated

appeal. On June 20, 2001, contemporaneously with this motion to withdraw, appointed counsel filed a motion for Rule on the Clerk. That motion is granted by *per curiam* today. Accordingly, the record has been lodged with the clerk.

[1] Attorney Hill notes that Dominic's original appointed counsel, Steve Oliver, can no longer represent her. Ms. Hill also notes that the public defender can no longer represent Simpson because that office also represented Dominic's two co-defendants. Ms. Hill asks this court to relieve the Office of the Public Defender for the Eighteenth Judicial District East as appointed counsel for Simpson in her criminal appeal. As state-salaried, public defenders for the Eighteenth Judicial District East, none of these attorneys are eligible 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 the motion to be relieved for good cause shown. Kent McLemore will be substituted as attorney for appellant Dominic Simpson.
