

Arthur E. DICKERSON a/k/a Bolden *v.* STATE of Arkansas

CR 04-1320

200 S.W.3d 899

Supreme Court of Arkansas
Opinion delivered January 13, 2005

1. APPEAL & ERROR — PUBLIC DEFENDER WITH FULL-TIME, STATE-FUNDED SECRETARY PERMITTED TO WITHDRAW BECAUSE HE WAS NOT ELIGIBLE FOR COMPENSATION FOR HIS APPELLATE WORK. — Where appellant's counsel, a full-time, state-salaried public defender, filed a motion to withdraw in which he stated that he was provided with a full-time, state-funded secretary to engage in his day-to-day office operations and thus would not be eligible for compensation for appellate work pursuant to Ark Code Ann § 19-4-1604(b)(2)(B), his motion to withdraw was granted
2. ATTORNEY & CLIENT — MOTION FOR APPOINTMENT OF COUNSEL MOOT — APPELLANT HAD COUNSEL OF RECORD WHO HAD NOT WITHDRAWN — Appellant's pro se motion for appointment of counsel was moot where, despite appellant's public defender being permitted to withdraw, appellant had other counsel of record for his appeal who had not filed a motion to withdraw

Motion to Withdraw; granted; and *Pro Se* Motion for Appointment of Counsel; moot

John Joplin, for appellant.

No response.

PER CURIAM. John Joplin, a full-time, state-salaried public defender in Sebastian County, was appointed by the trial court to represent Appellant Arthur Dickerson, a/k/a Bolden, an indigent defendant, on the charge of first-degree murder. Following a trial, he was convicted and sentenced to life imprisonment. Joplin timely filed a notice of appeal and has timely lodged the record in this court.

[1] Joplin now moves to withdraw as counsel on appeal, based on this court's case of *Rushing v. State*, 340 Ark. 84, 8 S.W.3d 489 (2000), which held that full-time, state-salaried public defenders were ineligible for compensation for their work on appeal.

Since, *Rushing*, the General Assembly has passed legislation providing that only those full-time, state-salaried public defenders who do not have state-funded secretaries may seek compensation for their work on appeal. See Ark. Code Ann. § 19-4-1604(b)(2)(B) (Supp. 2003).

[2] Joplin states in his motion that he is provided with a full-time, state-funded secretary to engage in his day-to-day office operations. Accordingly, he would not be eligible for compensation for appellate work, and we grant his motion to withdraw. It is not necessary for us to appoint substitute counsel at this time, as Ben Beland is the attorney of record for this appeal, and he has not filed a motion to withdraw. Appellant's *pro se* motion for appointment of counsel is therefore moot.

It is so ordered.
