

Raymond WALTERS *v.* STATE of Arkansas

CR 03-1041

132 S.W.3d 218

Supreme Court of Arkansas
Opinion delivered November 20, 2003

APPEAL & ERROR — MOTION TO WITHDRAW AS ATTORNEY ON DIRECT APPEAL — GRANTED. — Where counsel's motion stated that he was provided with a full-time, state-funded secretary, the supreme court granted his motion to withdraw as attorney and substituted another in the matter.

Motion to Withdraw as Attorney on Direct Appeal; granted.

Mark S. Fraiser, for appellant.

No response.

PER CURIAM. Mark S. Fraiser, a full time, state-salaried public defender for the Eighteenth Judicial District East, was appointed by the trial court to represent Appellant, Raymond Walters, an indigent defendant, on the charge of rape, a Class Y Felony. Following a trial, Walters was convicted of the charge and sentenced to life imprisonment. A notice of appeal was timely filed and the record has been timely lodged in this court.

Mr. Fraiser now asks to be relieved as counsel for Appellant in this criminal appeal, based on the case of *Rushing v. State*, 340 Ark. 84, 8 S.W.3d 489 (2000) (holding that full-time, state-salaried public defenders were ineligible for compensation for their work on appeal) and *Tester v. State*, 341 Ark. 281, 16 S.W.3d 227 (2000) (per curiam) (relieving Appellant's court-appointed public defender and appointing new counsel on appeal).

Since the time of those decisions, however, the law was changed by the General Assembly. Act 1370 of 2001 provides in part: "Persons employed as full-time public defenders who are not provided a state-funded secretary may also seek compensation for appellate work from the Arkansas Supreme Court or the Arkansas Court of Appeals." That provision is now codified as Ark. Code Ann. § 19-4-1604(b)(2)(B) (Supp. 2001).

[1] Mr. Fraiser's motion states that he is provided with a full-time, state-funded secretary. Accordingly, we grant his motion to withdraw as attorney. Mr. Steven R. Smith will be substituted as attorney for Appellant in this matter. The Clerk will establish a new briefing schedule.
