

Paul BARRON, Sr. *v.* STATE of Arkansas

CR 06-506

239 S.W.3d 480

Supreme Court of Arkansas
Opinion delivered September 21, 2006

APPELLATE PROCEDURE, CRIMINAL — COUNSEL DIRECTED TO FOLLOW PROCEDURES OF RULE 16 TO WITHDRAW AS ATTORNEY. — Where Rule 16 of the Rules of Appellate Procedure – Criminal sets out the procedure to follow when withdrawing as counsel for a defendant on appeal, but appellant’s attorney failed to follow that procedure, nor did he show cause why he should have been relieved of his appellate duties in this motion, the supreme court directed appellant’s attorney to comply with its procedure to properly withdraw as counsel in this appeal and to do so within thirty (30) days.

Petition for Writ of Certiorari to Complete Record, denied.

Phillip A. Moon, for appellant.

No response.

PER CURIAM. Paul Barron Sr.’s attorney, Phillip Moon, represented Barron at the trial below when he was convicted on January 8, 2002. Mr. Moon filed a notice of appeal on January 18, 2002, but Mr. Moon asserts in a petition for writ of certiorari filed with this court on January 30, 2006, that Barron discharged him as his attorney and authorized a “friend” to obtain his entire file concerning the proceedings in Carroll County Circuit Court. Mr. Moon further asserts that he was discharged by Barron, and he was thereby released from any further obligations regarding Barron’s appeal. In fact, Mr. Moon stated he did not fail in any duty to Barron because Barron had terminated him as Barron’s attorney. However, Mr. Moon now files Barron’s petition for a writ of certiorari, requesting our court to extend the time for the reporter of this case and the Carroll County Clerk time to complete the transcript and record on appeal and to deliver them to this court’s clerk as soon as they are completed.

First, we must mention the obvious: The time for filing the record in this case is decidedly late. Rule 16(a) of the Rules of Appellate Procedure – Criminal provides in pertinent part that trial

counsel, whether retained or court appointed, *shall* continue to represent a convicted defendant throughout any appeal, unless permitted by the trial court or the appellate court to withdraw in the interest of justice or for other sufficient cause. From the petition for writ of certiorari, Mr. Moon candidly admits the time for filing the transcript is late, but he seems to be of the opinion his duty of representing Barron ended when Barron discharged him.

[1] Of course, Rule 16 does set out the procedure to follow when withdrawing as counsel for a defendant on appeal, but Mr. Moon failed to follow that procedure. Nor did he show cause why he should have been relieved of his appellate duties in this motion. For these reasons, we direct Mr. Moon to comply with this court's procedure to properly withdraw as counsel in this appeal and to do so within thirty (30) days.¹
