

Moses JONES *v.* STATE of Arkansas

CR 06-988

241 S.W.3d 268

Supreme Court of Arkansas  
Opinion delivered October 12, 2006

MOTIONS — MOTION TO BE RELIEVED AS COUNSEL — GRANTED. — The motion of appellant’s attorney, asking to be relieved as counsel for appellant, was granted; appellant’s attorney was ineligible for compensation because he was provided with a full-time, state-funded secretary.

Motion to Withdraw as Counsel, granted.

No response.

**P**ER CURIAM. Fernando Padilla, a full-time, state-salaried public defender in Pulaski County, was appointed by the trial court to represent appellant, Moses Jones, an indigent defendant, on a charge of rape. Following a trial held on February 24, 2006, appellant was found guilty and sentenced to serve ten years in the Arkansas Department of Correction. A timely notice of appeal was filed with the circuit clerk, pursuant to Ark. R. App. P. – Crim. 2, and the record has been lodged in this court.

Mr. Padilla now asks to be relieved as counsel for appellant in this criminal appeal, based upon 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 Ark. Code Ann. § 16-87-201, *et seq.* (1998).

Since the court’s decision in *Rushing*, the law was changed by the General Assembly. Act 1370 of 2001 provides in part: “[P]ersons 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. 2005).

[1] Mr. Padilla’s motion states that he is provided with a full-time, state-funded secretary. Accordingly, we grant his mo-

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tion to withdraw as attorney. Ms. Sara Rogers will be substituted as attorney in this matter. The Clerk will establish a briefing schedule.

GLAZE, J., not participating.

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