

Ronald L. MISHION *v.* STATE of Arkansas

CR 07-321

255 S.W.3d 868

Supreme Court of Arkansas
Opinion delivered April 26, 2007

ATTORNEY & CLIENT — MOTION TO WITHDRAW GRANTED. — Appellant's attorney stated in his motion to be relieved as counsel that he was provided with a full-time, state-funded secretary; accordingly, the supreme court granted his motion to withdraw as attorney.

Motion to Withdraw as Attorney; granted.

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, Ronald L. Mishion, an indigent defendant, in connection with a petition to revoke filed by the State. Following a hearing held on August 9, 2006, the circuit court found that appellant violated the terms of his suspended sentence and sentenced him to serve ten years in the Arkansas Department of Correction, with an additional suspended sentence of ten years. A timely notice of appeal was filed with the circuit clerk, and the record has been lodged in this court.

Mr. Joplin now asks to be relieved as counsel for appellant in this criminal appeal, based upon the cases 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).

[1] Since the time of those decisions, 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).

Mr. Joplin's motion states that he is provided with a full-time, state-funded secretary. Accordingly, we grant his motion to withdraw as attorney. Mr. David L. Dunagin will be substituted as attorney for appellant in this matter. The Clerk will establish a new briefing schedule.