

Brian VINSON *v.* STATE of Arkansas

CR 07-495

281 S.W.3d 746

Supreme Court of Arkansas
Opinion delivered April 3, 2008

MOTIONS — TO BE RELIEVED AS COUNSEL — TO PROCEED IN FORMA PAUPERIS — MOTIONS GRANTED. — The supreme court found appellant to be indigent and appointed new counsel; accordingly, the motion of appellant's former counsel to be relieved as counsel was granted.

Motion to be Relieved as Counsel; Motion to Proceed in Forma Pauperis; motions granted.

Thomas Burns, for appellant.

No response.

PER CURIAM. Thomas Burns, counsel for Appellant Brian Vinson, petitions this court to be relieved as counsel, and requests that Francis Parker Jones be appointed to represent Vinson. Also before us is Vinson's motion to proceed in forma pauperis and his affidavit in support of his request to proceed in forma pauperis pursuant to Ark. Sup. Ct. R. 6-6 (2007).

On April 26, 2006, Vinson was sentenced to thirty-eight years in the Arkansas Department of Correction for aggravated assault, aggravated robbery, and theft of property. Vinson's trial attorney, Thomas Burns, timely filed a notice of appeal on May 24, 2006. The due date for lodging the record expired on August 21, 2006, and no motion for extension of time was filed. On August 23, 2006, the circuit court entered an order, which declared Vinson indigent and appointed F. Parker Jones as the attorney on appeal. The docket sheet reveals that a partial record was tendered on May 16, 2007. On that date, Vinson, by and through Jones, filed a motion for rule on clerk with our court. In a per curiam order dated June 14, 2007, we granted Vinson's motion for rule on clerk, however we held that the trial court lacked jurisdiction to relieve trial counsel and appoint appellate counsel after the notice of appeal from conviction had been filed. *Vinson v. State*, 370 Ark. 282, 258 S.W.3d 726 (2007) (per curiam). We said that if Vinson wished to pursue an appeal without Burns as counsel, Burns should

file a motion to withdraw with our court, accompanied by Vinson's request for indigency and an affidavit of indigency under Ark. Sup. Ct. R. 6-6. Those motions are now properly before us.

[1] We find that Appellant Vinson is indigent, and we appoint Francis Parker Jones as counsel for Appellant. Accordingly, we grant Burns's motion to be relieved as counsel.

Motions granted.
