

Genre PAGE *v.* STATE of Arkansas

CR 08-322

282 S.W.3d 813

Supreme Court of Arkansas
Opinion delivered April 10, 2008

MOTIONS — MOTION TO BE RELIEVED AS ATTORNEY FOR APPELLANT AND STAY BRIEFING SCHEDULE — MOTION 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; new counsel was substituted.

Motion to Be Relieved as Attorney for Appellant and Stay Briefing Schedule; granted.

PER CURIAM. Thomas B. Devine III, a full-time, state-salaried public defender for the Sixth Judicial District, was appointed by the trial court to represent appellant, Genre Page, an indigent defendant. Following a jury trial, Page was convicted of capital murder and sentenced to life without parole. A notice of appeal was timely filed and a request for the transcribed record was filed in this case.

Mr. Devine 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 provided 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 at Ark. Code Ann. § 19-4-1604(b)(2)(B) (Repl. 2007).

[1] Mr. Devine's motion states that he is provided with a full-time, state-funded secretary. Accordingly, we grant his motion to withdraw as attorney. Tim Cullen will be substituted as attorney for appellant in this matter. The clerk will establish a new briefing schedule.