

Gregory Christopher DECAY *v.* STATE of Arkansas

CR 08-1259

289 S.W.3d 96

Supreme Court of Arkansas
Opinion delivered November 20, 2008

MOTIONS — MOTION TO BE RELIEVED AS COUNSEL AND STAY BRIEFING SCHEDULE — MOTION GRANTED WHERE ATTORNEYS FOR APPELLANT HAD A FULL-TIME, STATE-FUNDED SECRETARY. — A person employed as a full-time public defender who is not provided a state-funded secretary may also seek compensation for appellate work from the Arkansas Supreme Court or Court of Appeals; the motion filed by attorneys for the appellant stated that they are provided with a full-time, state-funded secretary; accordingly, their motion to withdraw as attorneys was granted, another attorney was substituted, and the clerk was ordered to establish a new briefing schedule.

Motion to Be Relieved as Counsel and to Stay the Briefing Schedule; granted.

Denny Hyslip and Julie C. Tolleson, for appellant.

No response.

PER CURIAM. Denny Hyslip and Julie C. Tolleson, full-time, state-salaried public defenders for the Fourth Judicial District, were appointed by the trial court to represent appellant, Gregory Christopher Decay. Following a jury trial, Decay was convicted of two counts of capital murder and sentenced to death as to both counts. A notice of appeal was timely filed and a request for the transcribed record was filed in this case.

[1] Mr. Hyslip and Ms. Tolleson now ask 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), where we held that full-time, state salaried public defenders were ineligible for compensation for their work on appeal. Since *Rushing*, the General Assembly passed Arkansas Code Annotated § 19-4-1604(b)(2)(B) (Supp. 2007), which states:

A person employed as full-time public defender who is not provided a state-funded secretary may also seek compensation for appellate work from the Arkansas Supreme Court or the Court of Appeals.

Mr. Hyslip and Ms. Tolleson's motion states that they are provided with a full-time, state-funded secretary. Accordingly, we grant their motion to withdraw as attorneys. Mr. Dale Adams will be substituted as attorney for appellant in this matter. The clerk will establish a new briefing schedule.