

Craig BURKHALTER v. STATE of Arkansas

CR 96-278

940 S.W.2d 496

Supreme Court of Arkansas
Opinion delivered April 7, 1997

MOTIONS — MOTION TO REMAND FOR INDIGENCY DETERMINATION DENIED — AFFIDAVIT OF INDIGENCY FILED PURSUANT TO ARK. SUP. CT. R. 6-6 WOULD ALLOW COURT TO ADDRESS ISSUE. — Where appellant's counsel filed a motion to remand the case to the Circuit Court for a determination of indigence, the motion was denied because there was no need to remand the case in view of the provisions of Ark. Sup. Ct. R. 6-6; if compliance with Rule 6-6 occurs, and appellant is thus shown to be indigent, the supreme court will proceed with the appeal.

Motion to Remand for Indigency Determination denied.

John I. Purtle, P.A., for appellant.

Winston Bryant, Att'y Gen., by: *Brad Newman*, Asst. Att'y Gen., for appellee.

PER CURIAM. Craig Burkhalter was convicted of first-degree sexual abuse, rape, and violation of a minor. Mr. Burkhalter's counsel filed a notice of appeal and thereafter sought to withdraw from the case. Counsel's motion to withdraw was denied. On April 15, 1996, counsel moved to allow Mr. Burkhalter to proceed *in forma pauperis*. The motion did not present the necessary affidavit of indigence, and it was denied. A motion for reconsideration was made, again presenting no affidavit of indigence, and the motion was denied on June 10, 1996.

Mr. Burkhalter's counsel has now filed a motion to remand the case to the Circuit Court for a determination of indigence. We deny the motion because there is no need to remand the case in view of the provisions of Ark. Sup. Ct. R. 6-6. We have been given no reason why the affidavit provided in the Rule has not been presented.

[1] If compliance with Rule 6-6 occurs, and Mr. Burkhalter is thus shown to be indigent, we will proceed with the appeal. If no affidavit is filed prior to May 2, 1997, we will consider taking further action with respect to the appeal and to counsel for Mr. Burkhalter.
