

Vincent HOPES *v.* STATE of Arkansas

CR 96-1263

949 S.W.2d 895

Supreme Court of Arkansas
Opinion delivered September 11, 1997

ATTORNEY & CLIENT — MOTION TO BE RELIEVED AS COUNSEL DENIED. — Where counsel for appellant moved to be relieved as counsel but presented no grounds to warrant the relief requested, the supreme court, holding that there was no basis to relieve the attorney as counsel, denied the motion.

Motion to be Relieved as Counsel; denied.

The Clay Law Firm, by: *Alvin Clay*, for appellant.

Winston Bryant, Att’y Gen., by: *David R. Raupp*, Sr. Asst. Att’y Gen., for appellee.

PER CURIAM. On July 30, 1997, Alvin Clay, counsel for appellant Vincent Hopes moved to be relieved as counsel. In support of his motion, he sets out part of the history of this case but presents no grounds to warrant the relief requested.

On September 14, 1995, the federal district court issued an order stating that unless the appellant was allowed to prosecute A.R.Cr.P. Rule 36.4 proceedings in Pulaski County Circuit Court and a state appeal, if necessary, with benefit of counsel, a federal writ of habeas corpus would issue. An attorney other than Mr. Clay was appointed on October 26, 1995, by Circuit Judge Marion Humphrey. A hearing before the circuit court was had on the appellant’s Rule 36.4 motion for a new trial on April 10, 1996. Judge Humphrey denied the motion on April 18, 1996. On April 30, 1996, the appellant’s appointed counsel was relieved as counsel. The appellant then filed a notice of appeal *pro se* on May 3, 1996. The transcript in this matter was filed on October 17, 1996.

On February 7, 1997, Judge Humphrey appointed Mr. Clay to represent the appellant in his appeal from the denial of his Rule 36.4 motion. On May 29, 1997, Mr. Clay moved for a belated

appeal which we considered moot in light of the fact that appellant's appeal was already pending. Counsel may, however, desire to file a belated brief.

[1] There is no basis to relieve Mr. Clay as counsel. The motion is denied.
