

Carl JOHNSON *v.* STATE of Arkansas

CR 03-170

100 S.W.3d 739

Supreme Court of Arkansas
Opinion delivered March 13, 2003

ATTORNEY & CLIENT — PETITION TO WITHDRAW GRANTED — SUBSTITUTED COUNSEL APPOINTED. — Where, as a state-salaried, full-time public defender, with a full-time state-funded secretary, counsel was ineligible for compensation by the supreme court for work performed in the appeal of this matter, the supreme court granted counsel's motion to withdraw as attorney and substituted another attorney.

Motion to Withdraw granted; Briefing Schedule to be established.

John Joplin, for appellant.

No response.

PER CURIAM. John Joplin, a full-time, state-salaried public defender in Sebastian County, was appointed by the trial court to represent appellant, Carl Johnson, an indigent defendant, on the charge of murder in the first degree. Following a trial held on November 15, 2002, appellant was found guilty and sentenced to serve forty years in the Arkansas Department of Correction and to pay a fine of \$15,000. A timely notice of appeal was filed with the circuit clerk, pursuant to Ark. R. App. P.—Crim. 10, and the record was timely lodged in this court.

Mr. Joplin now asks to be relieved as counsel for appellant in this criminal appeal, based upon the cases of *Rushing v. State*, 340 Ark. 84, 8 S.W.484 (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, the law was changed by the General Assembly. Act 1370 of 2001 provides in part: “[P]ersons 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 as Ark. Code Ann. § 19-4-1604(b)(2)(B) (Supp. 2001).

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