

Rikko SMITH *v.* STATE of Arkansas

CR 05-1039

222 S.W.3d 213

Supreme Court of Arkansas
Opinion delivered January 12, 2006

ATTORNEY & CLIENT — PUBLIC DEFENDER PERMITTED TO WITHDRAW FROM APPEAL. — A full-time, state-salaried public defender with a full-time, state-funded secretary was permitted to withdraw from her client's case on appeal, and new counsel was appointed; only full-time, state-salaried public defenders who do not have state-funded secretaries may seek compensation for their work on appeal.

Motion to be Relieved and for Extension of Time granted.

Sandra Trotter Phillips, for appellant.

No response.

PER CURIAM. Sandra Trotter Phillips, a full-time, state-salaried public defender for the Eleventh Judicial District, was appointed by the trial court to represent appellant, Rikko Smith, an indigent defendant. An appeal was filed, and a request for the transcribed record has been lodged in this court. This court denied the motion to be relieved that was submitted on December 8, 2005.

[1] Ms. Phillips now moves again to withdraw as counsel on appeal based upon *Rushing v. State*, 340 Ark. 84, 8 S.W.3d 489 (2000), which held that full-time, state-salaried public defenders were ineligible for compensation for their work on appeal. Since *Rushing*, the General Assembly had passed legislation providing

that only those full-time, state-salaried public defenders who do not have state-funded secretaries may seek compensation for their work on appeal. *See* Ark. Code Ann. § 19-4-1604(b)(2)(B) (Supp. 2003).

Ms. Trotter states in her motion and affidavit that she is provided with a full-time, state-funded secretary who maintains her office. We grant her motion to withdraw.

Mr. Chad Green will be substituted as counsel for appellant in this matter. The Clerk will establish a new briefing schedule.

A motion for extension of time was also filed. The motion is granted and the time is extended thirty days from the date of this order.

It is so ordered.
