

Ledell LEE *v.* STATE of Arkansas

CR 99-1116

233 S.W.3d 674

Supreme Court of Arkansas
Opinion delivered April 13, 2006

MOTIONS — MOTION TO RECALL MANDATE — MOTION HELD IN ABEY-
ANCE. — Pursuant to *Hill v. State*, 363 Ark. 480, 215 S.W.3d 589
(2005), counsel seeking to represent a capital defendant in connec-
tion with unexhausted state remedies following issuance of the
mandate must comply with the criteria for appointment set forth in
Ark. R. Crim. P. 37.5 and must be appointed by the supreme court;
where appellant's counsel had failed to request the court to appoint
her to represent the appellant in the proceedings, the supreme court
was unable to address the merits of appellant's motion to recall the
mandate affirming the trial court's denial of postconviction relief.

Motion to Recall Mandate; held in abeyance.

Cauley, Bowman, Carney, & Williams, PLLC, by: *Deborah Sallings*; and *Public Interest Litigation Clinic, Kansas City, Missouri*, by: *Kent E. Gipson* and *William C. Odle*, for appellant.

Mike Beebe, Att’y Gen., by: *Lauren Elizabeth Heil*, Ass’t Att’y Gen., for appellee.

PER CURIAM. [1] Appellant Ledell Lee moves this court to recall its mandate affirming the trial court’s denial of post-conviction relief pursuant to Ark. R. Crim. P. 37.5. *See Lee v. State*, 343 Ark. 702, 38 S.W.3d 334 (2001). At this time, however, we are unable to address the merits of Appellant’s motion, as his counsel, Deborah Sallings, has failed to request this court to appoint her to represent Appellant in the instant proceedings. Pursuant to this court’s decision in *Hill v. State*, 363 Ark. 480, 215 S.W.3d 589 (2005), counsel seeking to represent a capital defendant in connection with unexhausted state remedies following issuance of the mandate must comply with the criteria for appointment set forth in Rule 37.5 and must be appointed by this court.

Accordingly, Ms. Sallings has fifteen days from the issuance of this *per curiam* to comply with the requirements of Rule 37.5 and *Hill*.