

Nathan H. MEJIA *v.* STATE of Arkansas

CR 06-442

235 S.W.3d 519

Supreme Court of Arkansas
Opinion delivered May 11, 2006

MOTIONS — MOTION TO WITHDRAW GRANTED IN ACCORDANCE WITH ARK. CODE ANN. § 19-4-1604(b)(2)(B). — Motion to withdraw as attorney was granted where the public defender appointed to represent the Appellant was provided with a full-time, state-funded secretary who maintains his office operations.

Motion to Withdraw as Attorney on Direct Appeal; granted.

Timothy C. Sharum, for appellant.

No response.

PER CURIAM. Timothy C. Sharum, a full-time, state-salaried public defender in Sebastian County, the Twelfth Judicial District, was appointed to represent Appellant, Nathan H. Mejia, an indigent defendant. On September 14, 2005, a hearing was held on the State's Petition to Revoke and the court found that Mr. Mejia violated the terms and conditions of his suspended imposition of sentence and he was sentenced to three years in the Arkansas Department of Correction. A notice of appeal was timely filed and the record has been timely lodged in this Court.

Mr. Sharum now asks to be relieved as counsel on direct appeal based upon *Rushing v. State*, 340 Ark. 84, 8 S.W.3d 489 (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) (relieving Appellant's court appointed public defender and appointing new counsel on appeal). Since *Rushing*, and *Tester*, the General Assembly passed legislation providing that only those full-time, state-salaried public defenders who do not have a state-funded secretary may seek compensation for their work on appeal. See Ark. Code Ann. § 19-4-1604(b)(2)(B) (Supp. 2003).

[1] Mr. Sharum states in his motion that he is provided with a full-time, state-funded secretary who maintains his office operations. Accordingly, we grant his motion to withdraw as attorney. Mr. David Dunagin has stated his willingness to accept appointment in this case and will be substituted as counsel for Appellant.
