

SUPREME COURT OF ARKANSAS

No. CR12-34

STATE OF ARKANSAS

PETITIONER

V.

JAMES GREEN, JR.

RESPONDENT

Opinion Delivered February 2, 2012

MOTION TO INVALIDATE THE
APPOINTMENT OF PUBLIC
DEFENDER'S OFFICE AS
APPELLATE COUNSEL

MOTION GRANTED.

PER CURIAM

James Green, Jr., was found guilty of failing to register as a sex offender, and a judgment and commitment order to this effect was entered on December 1, 2011. Green's trial counsel, Jack Kearney, moved to be relieved as attorney of record on December 8, 2011. On December 14, 2011, Green filed a pro se notice of appeal. On December 27, 2011, an order was filed granting Kearney's motion to be relieved as attorney of record and appointing the appellate division of the public defender's office to represent Green. The appointed public defender now moves this court to set aside the order appointing him.

Rule 16 of the Arkansas Rules of Appellate Procedure—Criminal states that trial counsel, whether retained or court-appointed, shall continue to represent a convicted defendant throughout any appeal unless permitted by either the trial court or the appellate court to withdraw "in the interest of justice or for other sufficient cause." The rule goes on to state that, after the notice of appeal of a conviction has been filed, the appellate court shall have exclusive jurisdiction to relieve counsel and appoint new counsel. Ark. R. App.

P.–Crim. 16(a) (2011). Accordingly, once the notice of appeal was filed, any motion to be relieved as counsel should have been filed in this court, which has sole jurisdiction pursuant to Rule 16 to entertain such motions. *See Sanders v. State*, 329 Ark. 363, 952 S.W.2d 133 (1997). As Kearney was not relieved by the circuit court before the notice of appeal was filed, he remains attorney-of-record for the appeal. We therefore grant the public defender’s motion to invalidate the order.

Motion granted.