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SUPREME COURT OF ARKANSAS

No. CR-17-163

JUSTIN ISIAH BURNS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered April 6, 2017

MOTION TO WITHDRAW AS
ATTORNEY ON DIRECT APPEALMOTION GRANTED.**PER CURIAM**

Appellant Justin Isiah Burns pleaded guilty to rape, admitted he was a habitual offender with two prior felony convictions, and was sentenced by a Garland County jury to life imprisonment. Burns is represented by Mark S. Fraiser, who asks to be relieved on the ground that he is not eligible to be compensated for services as appellate counsel.

Arkansas Code Annotated section 19-4-1604(b)(2)(B) (Repl. 2016) provides that persons employed as full-time public defenders who are not provided a state-funded secretary are eligible to seek compensation for appellate work. Counsel affirms that he is a full-time public defender with a full-time, state-funded secretary. Under these circumstances, he is not entitled to be paid for services in this appeal, and his request to be relieved is well-founded. *Craig v. State*, 2012 Ark. 95 (per curiam).

Therefore, we grant Fraiser's motion to be relieved. We appoint attorney Timothy Penhallegon to represent Burns on appeal. Our clerk is directed to set a briefing schedule for the appeal.