

Cite as 2010 Ark. 200

**SUPREME COURT OF ARKANSAS**

No. CR-10-362

KEVIN RAY PEARCY

APPELLANT

Opinion Delivered April 29, 2010

V.

MOTION TO WITHDRAW AS  
ATTORNEY OF RECORD

STATE OF ARKANSAS  
APPELLEE

MOTION GRANTED.

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**PER CURIAM**

Appellant Kevin Percy was convicted of capital murder and was sentenced as a habitual offender to a term of life imprisonment. The circuit court entered a judgment and commitment order on December 14, 2009, and an amended judgment and commitment order on December 23, 2009. An appeal from that judgment has been lodged in this court. Appellant is represented on appeal by Mark S. Frasier, a full-time public defender. Mr. Frasier now asks that he be permitted to withdraw as counsel on the ground that he is ineligible for compensation for services as appellate counsel.

Arkansas Code Annotated section 19-4-1604(b)(2)(B) (Repl. 2007), 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 here 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. See *Rhodes v. State*, 2009 Ark. 138, 297 S.W.3d 551 (per curiam).

We grant Mr. Frasier's motion to withdraw and appoint attorney Tim Cullen to represent the appellant. Our clerk is directed to set a new briefing schedule for the appeal.

Motion granted.