

Cite as 2009 Ark. 525

**SUPREME COURT OF ARKANSAS**

No. CR09-1118

JOSEPH ROUNSAVILLE,  
APPELLANT,

VS.

STATE OF ARKANSAS,  
APPELLEE,**Opinion Delivered** 10-29-09MOTION TO BE RELIEVED AS  
ATTORNEY FOR APPELLANT AND  
STAY BRIEFING SCHEDULE

MOTION GRANTED.

**PER CURIAM**

On June 17, 2009, Thomas B. Devine III, a full-time, state-salaried public defender, was appointed by the trial court to represent Joseph Rounsaville in a Rule 33.3 hearing. An order was filed on August 14, 2009, denying the Rule 33.3 petition. A notice of appeal was filed on August 17, 2009, and the transcribed record has been ordered. Mr. Devine now moves to be relieved as attorney for Rounsaville and to stay the briefing schedule until substitute counsel is appointed.

In *Rushing v. State*, 340 Ark. 84, 8 S.W.3d 489 (2000), we held that full-time, state-salaried public defenders were ineligible for compensation for their work done on appeal. Since *Rushing*, the General Assembly passed Ark. Code Ann. § 19-4-1604(b)(2)(B) (Supp. 2007), which states: “A person employed as a full-time public defender who is not provided a state-funded secretary may also seek compensation for appellate work from the Supreme Court or the Court of Appeals.”

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Mr. Devine states in his motion that he is provided with a full-time, state-funded secretary. Accordingly, we grant his motion to be relieved.

D. Clifford Sward will be substituted as counsel for Rounsaville in this matter. The clerk is directed to establish a new briefing schedule.

Motion granted.