

SUPREME COURT OF ARKANSAS

No. CR06-00988

MOSES JONES,

APPELLANT,

VS.

STATE OF ARKANSAS,

APPELLEE,

Opinion Delivered October 12, 2006

MOTION TO WITHDRAW AS
COUNSEL

GRANTED.

PER CURIAM

Fernando Padilla, a full-time, state-salaried public defender in Pulaski County, was appointed by the trial court to represent appellant, Moses Jones, an indigent defendant, on a charge of rape. Following a trial held on February 24, 2006, appellant was found guilty and sentenced to serve ten years in the Arkansas Department of Correction. A timely notice of appeal was filed with the circuit clerk, pursuant to Ark. R. App. P.–Crim. 2, and the record has been lodged in this court.

Mr. Padilla now asks to be relieved as counsel for appellant in this criminal appeal, based upon the case of *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 Ark. Code Ann. § 16-87-201, *et seq.* (1998).

Since the court’s decision in *Rushing*, the law was changed by the General Assembly. Act 1370 of 2001 provides in part: “[P]ersons employed as full-time public defenders, who

are not provided a state-funded secretary, may also seek compensation for appellate work from the Arkansas Supreme Court or the Arkansas Court of Appeals.” That provision is now codified as Ark. Code Ann. § 19-4-1604(b)(2)(B) (Supp. 2001).

Mr. Padilla’s motion states that he is provided with a full-time, state-funded secretary. Accordingly, we grant his motion to withdraw as attorney. Ms. Sara Rogers will be substituted as attorney in this matter. The Clerk will establish a briefing schedule.

GLAZE, J., not participating.