

SUPREME COURT OF ARKANSAS

No. CR 92-167

DAVID SHAYNE HENDERSON
PETITIONER

V.

STATE OF ARKANSAS
RESPONDENT

Opinion Delivered December 8, 2011

PRO SE MOTION FOR USE OF
TRANSCRIPT [PULASKI COUNTY
CIRCUIT COURT, CR 91-299]MOTION DENIED.

PER CURIAM

Petitioner David Shayne Henderson filed a pro se motion in this court,¹ in which he seeks the use of the record and other items that he appears to believe were filed in this court on appeal of his conviction and life sentence for rape. *See Henderson v. State*, 310 Ark. 287, 835 S.W.2d 865 (1992). We consider the motion as one for a copy of the record or transcript at public expense, because providing petitioner with access to the record would require photocopying it; non-attorneys are not allowed to check out transcripts on file with this court. *See Carter v. State*, 2010 Ark. 427 (per curiam). Because petitioner provides no basis for this court to provide him with a copy of the transcript at public expense, we deny the motion.

Petitioner has attached to the motion an affidavit and request to proceed in forma pauperis, in which he avers that he is indigent. Indigency alone, however, does not entitle a petitioner to photocopying at public expense. *Cox v. State*, 2011 Ark. 96 (per curiam).

In his motion, petitioner asserts that he requires the record “so he can reopen the case.”

¹For clerical purposes, our clerk has assigned the instant motion the same docket number as the direct appeal of the judgment.

He alleges that the record is needed to articulate the exact nature of unidentified constitutional and statutory violations. He states that a detective who took the victim's statement was not available at trial, and he alleges that the statement was not true, despite a stipulation between the defense and the prosecution.

A petitioner seeking a copy of a trial transcript at public expense must establish that there is a timely postconviction remedy available to him. *Carter*, 2010 Ark. 427. To be entitled to copies at public expense, a petitioner must demonstrate a compelling need for the copies as documentary evidence to support an allegation contained in a timely petition for postconviction relief. *Cox*, 2011 Ark. 96. The petitioner must cite a particular ground for relief that requires documentation in order for it to be effectively raised in a postconviction petition. *Hickey v. State*, 2010 Ark. 299 (per curiam).

There was indeed an incident during the trial when the victim, during cross-examination, testified that the statement that was the subject of a stipulation between the parties was only an incomplete summary and did not include everything that she had said. Defense counsel protested that the detective was not available to impeach her statement, but after some discussion, with the court noting that, if available, the detective would likely only confirm that the statement reflected what the victim had said to him, counsel indicated that dealing with the matter through a stipulation would be acceptable. The victim's statement, however, ultimately was not included in the exhibits introduced at trial.

Petitioner does not explain in his motion what basis this incident provides for postconviction relief or how the record is needed to support any potential claim. He fails to

demonstrate any particular grounds for a postconviction remedy that may potentially arise from the circumstances that he referenced, and he does not show a compelling need for a copy of the record as documentary evidence of any specific claim. He further does not establish that there is any timely postconviction remedy available to him. Because he has failed to provide a basis to provide a copy of the record to him at public expense, we deny the motion.

Motion denied.