

NOTICE: NOT FOR PUBLICATION.
UNDER ARIZ. R. SUP. CT. 111(c), THIS DECISION DOES NOT CREATE LEGAL PRECEDENT
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

JOSE ABEL CABRERA-SOMOSA, *Petitioner,*

v.

THE HONORABLE BRUCE R. COHEN, Judge of the SUPERIOR COURT
OF THE STATE OF ARIZONA, in and for the County of MARICOPA,
Respondent Judge,

STATE OF ARIZONA, *Real Party in Interest*

No. 1 CA-SA 13-0304

FILED 12-12-2013

Appeal from the Superior Court in Maricopa County
No. CR2008-006195-001 DT
The Honorable Bruce R. Cohen, Judge

JURISDICTION ACCEPTED; RELIEF DENIED

COUNSEL

Jose Abel Cabrera-Somosa, San Luis

Petitioner in Propria Persona

Maricopa County Attorney's Office, Phoenix
By Robert E. Prather

Counsel for Real Party in Interest

DECISION ORDER

Judge John C. Gemmill delivered the decision of the Court, in which Presiding Judge Maurice Portley and Judge Michael J. Brown joined.

G E M M I L L, Judge:

¶1 The court has considered Petitioner Cabrera-Somosa's petition for special action, the State's response thereto, and Petitioner's reply. In the exercise of our discretion, we accept special action jurisdiction of this matter. We deny relief, however, because the ruling of the superior court denying free transcripts of Petitioner's state court trial was correct. Petitioner apparently has not yet filed his habeas corpus petition in federal court. Petitioner may file his habeas corpus petition in federal court and request the transcripts, if necessary, in that federal court proceeding. Regarding Petitioner's concern about exhausting his state court remedies, federal case law indicates that his state court remedies have been exhausted without presentation of a petition for review to the state supreme court. *See Swoopes v. Sublett*, 196 F.3d 1008 (9th Cir. 1999) (concluding that "Arizona state prisoners need not appeal an Arizona Court of Appeals' denial of post-conviction relief to the Arizona Supreme Court in order to exhaust their state remedies for federal habeas corpus purposes, except in capital cases or cases involving the imposition of a life sentence"); *Crowell v. Knowles*, 483 F. Supp. 2d 925, 926 (D. Ariz. 2007) (clarifying that a prisoner, sentenced to life in prison, has exhausted his state court remedies for federal habeas relief purposes without the necessity of filing a petition for review to the Arizona Supreme Court). Accordingly,

¶2 **IT IS ORDERED** that the court of appeals in its discretion exercises its special action jurisdiction in this matter, but denies relief.



Ruth A. Willingham · Clerk of the Court
FILED: mjt