

Cite as 2018 Ark. 76
SUPREME COURT OF ARKANSAS
No. CR-13-715

TROY MCCULLEY

PETITIONER

V.

STATE OF ARKANSAS

RESPONDENT

Opinion Delivered March 8, 2018

PRO SE MOTION FOR RECORD
UNDER RULE OF APPELLATE
PROCEDURE - CRIMINAL 19
[POINSETT COUNTY CIRCUIT
COURT, NO. 56CR-12-50]

RESPONSE ORDERED.

JOSEPHINE LINKER HART, Associate Justice

Petitioner Troy McCulley requests that he be provided with a copy of his trial transcript filed on direct appeal pursuant to Arkansas Rule of Appellate Procedure - Criminal 19 (2016). Steven R. Davis, his appellate attorney has not filed a response as required by Rule 19; we therefore direct Steven R. Davis, who represented McCulley on appeal, to submit a response.

The Arkansas Court of Appeals affirmed the judgment reflecting McCulley's convictions for rape, distribution and possession of matters depicting child pornography, and possession of drug paraphernalia. *McCulley v. State*, 2014 Ark. App. 330. McCulley, who asserts that he is indigent, filed his pro se motion for transcript in which he requests a copy of the trial transcript under Rule 19. In the motion, McCulley indicates that he has requested a copy of the transcript from his trial attorney, John May. McCulley also served the pending motion on Steven R. Davis, who was the attorney who represented McCulley

on appeal and who is listed on the docket for the court of appeals as the attorney who represented McCulley throughout the appeal. *See McCulley*, 2014 Ark. App. 330 (listing Davis as the attorney for appellant). Under Rule 19(b), the attorney who has been served with a copy of the motion is required to respond. Having been properly served with the motion, Davis must respond, even if he believes the motion has no merit, as Rule 19 makes counsel's response mandatory. *Green v. State*, 2017 Ark. 243, at 1-2 (citing *Geatches v. State*, 2016 Ark. 452, 505 S.W.3d 691).

Accordingly, we direct Davis to file the response required by Rule 19 stating (1) whether he has the requested copy in his possession; (2) whether, if so, the copy is on paper or in some other format; (3) whether, if he has a copy, that copy has been provided to McCulley. *See Ark. R. App. P. -Crim. 19(b)*. If Davis's response states that he has a copy of the transcript in his possession, but he has not provided it to McCulley, then the response must also either commit to provide the requested transcript or state good cause for the failure to do so. *See Ark. R. App. P. Crim. -19*. Davis's response must be received within ten days of this opinion.

Response ordered.

Steven R. Davis, for appellant.

Leslie Rutledge, Att'y Gen., by: *Lauren Elizabeth Heil*, Ass't Att'y Gen., for appellee.