

Cite as 2009 Ark. 604

SUPREME COURT OF ARKANSAS

No. CACR 02-419

EDWARD CHARLES WRIGHT
Petitioner

v.

STATE OF ARKANSAS
Respondent**Opinion Delivered** December 3, 2009PRO SE MOTION TO BE HEARD
[CIRCUIT COURT OF PULASKI
COUNTY, CR 2001-445]MOTION TREATED AS MOTION FOR
PHOTOCOPYING AT PUBLIC
EXPENSE AND DENIED.**PER CURIAM**

Edward Charles Wright was found guilty by a jury of breaking or entering, two counts of terroristic threatening, and theft of property. He was also found to be a habitual offender. An aggregate sentence of 540 months' imprisonment was imposed. The Arkansas Court of Appeals affirmed. *Wright v. State*, CACR 02-419 (Ark. App. February 19, 2003).

Petitioner Wright, who contends that he is indigent, has filed the "Motion to be Heard" that is now before us. As the motion is a request for a copy of the transcript of his trial at public expense, it will be treated as such.¹ In the motion, petitioner notes that his prior requests for transcript have been denied. He asks that, if this court will not provide him with a copy of the transcript, that a copy of it be forwarded to the prison where he is incarcerated so

¹This is the seventh such motion filed by petitioner in this court. None of the prior motions has been granted. For clerical purposes, the instant motion, as well as the prior motions, was filed under the docket number assigned to the direct appeal of the judgment that was lodged in the court of appeals. This court decides motions for transcript because such motions are considered to be requests for postconviction relief. See *Williams v. State*, 273 Ark. 315, 619 S.W.2d 628 (1981).

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that he may review it. As grounds for the motion, petitioner states only that he is indigent and thus entitled to the relief sought.

Providing petitioner with access to the transcript by forwarding a copy to his place of incarceration would require photocopying it at public expense, inasmuch as records lodged with this court may not be checked out by non-attorneys. Accordingly, a motion for use of a transcript is considered under the same criteria as a motion seeking a copy of a transcript for the petitioner to keep.

We have consistently held that a petitioner is not entitled to photocopying at public expense unless he or she demonstrates some compelling need for specific documentary evidence to support an allegation contained in a petition for postconviction relief. *Layton v. State*, 2009 Ark. 438 (per curiam); *Moore v. State*, 324 Ark. 453, 921 S.W.2d 606 (1996); see *Austin v. State*, 287 Ark. 256, 697 S.W.2d 914 (1985). Indigency alone does not entitle a petitioner to photocopying at public expense. *Gardner v. State*, 2009 Ark. 488 (per curiam) (citing *Washington v. State*, 270 Ark. 840, 606 S.W.2d 365 (1980)). As petitioner has not alleged that there is any specific documentary evidence in the transcript to support a postconviction claim or that there is a postconviction remedy available to him at this time, he has failed to show that the transcript lodged on appeal should be provided to him at no cost.

It should be noted that when an appeal has been lodged in either this court or the court of appeals, all material related to the appeal remains permanently on file with our clerk. Persons may review the material in the clerk's office and photocopy all or portions of it. An incarcerated

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person desiring a photocopy of material related to an appeal may write this court, remit the photocopying fee, and request that the copy be mailed to the prison. All persons, including prisoners, must bear the cost of photocopying. *Layton v. State*, 2009 Ark. 438 (per curiam).

Motion denied.