

Cite as 2009 Ark. 623

SUPREME COURT OF ARKANSAS

No. CR 81-82

ROBERT HEFFERNAN
Petitioner

v.

LARRY NORRIS, DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION, AND
STATE OF ARKANSAS
Respondent

Opinion Delivered December 10, 2009

PRO SE MOTION FOR USE OF TRIAL
TRANSCRIPT [CIRCUIT COURT OF
SALINE COUNTY, CR 81-41]

MOTION DENIED.

PER CURIAM

Robert Heffernan was convicted by a jury of capital felony murder and sentenced to life imprisonment without parole. We affirmed. *Heffernan v. State*, 278 Ark. 325, 645 S.W.2d 666 (1983).

Now before us is the petitioner's pro se motion in which he asks that this court permit him to use for a period of time a copy of the transcript of his trial.¹ We consider the motion as one for a copy of the transcript at public expense, inasmuch as providing petitioner with access to the transcript would require photocopying it because non-attorneys are not allowed to check

¹For clerical purposes, the motion has been filed under the docket number assigned to the direct appeal of the judgment.

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out transcripts on file with this court.

Petitioner states in the motion that the Circuit Court of Saline County denied his petition for habeas corpus and that he has filed a timely notice of appeal from the order. He contends that he needs the trial transcript in order to complete the brief for that appeal. Petitioner, however, has not lodged the appeal from the order in this court.

Indigency alone does not entitle a petitioner to free photocopying. *Lewis v. State*, 2009 Ark. 573; *Nooner v. State*, 352 Ark. 481, 101 S.W.3d 834 (2003) (per curiam). To be entitled to a copy of a trial transcript at public expense, a petitioner must show a compelling need for the transcript to support an allegation contained in a timely petition for postconviction relief. *Bradshaw v. State*, 372 Ark. 305, 275 S.W.3d 173 (2008) (per curiam). Petitioner has not established a compelling need for the transcript at this time.²

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 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. *Evans v. State*, 2009 Ark. 529; *Layton v. State*, 2009 Ark. 438 (per curiam).

Motion denied.

²When the appeal is lodged here, petitioner may file a motion in that appeal for access to the trial transcript.