

Cite as 2010 Ark. 82

SUPREME COURT OF ARKANSAS

No. CACR 08-1119

JERRY CHAMPION
Petitioner

v.

STATE OF ARKANSAS
Respondent**Opinion Delivered** February 18, 2010PRO SE MOTION FOR TRIAL
TRANSCRIPT, OR ACCESS TO
TRIAL TRANSCRIPT, AT PUBLIC
EXPENSE [CIRCUIT COURT OF
UNION COUNTY, CR 2007-555]

MOTION DENIED.

PER CURIAM

Petitioner Jerry Champion was found guilty of aggravated robbery and sentenced to 240 months' imprisonment. The Arkansas Court of Appeals affirmed. *Champion v. State*, CA CR 08-1119 (Ark. App. Apr. 15, 2009) (unpublished).

Now before us is petitioner's pro se motion for a copy, or use of a copy, of the transcript lodged on direct appeal.¹ Appended to the motion is petitioner's affidavit of indigency. We must 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 out transcripts on file with this court. *See Heffernan v. Norris*, 2009 Ark. 623 (per curiam).

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

Cite as 2010 Ark. 82

As his sole ground for the motion, petitioner contends that “a transcript of the record is needed to decide the issues(s) presented.” Petitioner does not explain the statement, and he makes no reference to any pending legal proceeding for which a copy of the transcript might be needed.²

The motion is denied. Indigency alone does not entitle a petitioner to free photocopying. *Evans v. State*, 2009 Ark. 529 (per curiam); *Nooner v. State*, 352 Ark. 481, 101 S.W.3d 834 (2003) (per curiam). To be entitled to a copy of a trial transcript or other material at public expense, a petitioner must show a compelling need for the transcript or material to support an allegation contained in a timely petition for postconviction relief. *Avery v. State*, 2009 Ark. 528 (per curiam); *Bradshaw v. State*, 372 Ark. 305, 275 S.W.3d 173 (2008) (per curiam). Petitioner has not established a compelling need for the transcript.

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

²Petitioner also asks that this court grant him “leave for post-conviction relief.” If the request was intended as a petition for leave to proceed in circuit court under our postconviction rule, Arkansas Rule of Criminal Procedure 37.1 (2009), it is not necessary that petitioner obtain leave of this court before proceeding in the trial with a petition pursuant to the rule. Rule 37 was abolished by this court effective July 1, 1989. *In re Abolishment of Rule 37 & the Revision of Rule 36 of the Ark. Rules of Criminal Procedure*, 299 Ark. 573, 770 S.W.2d 148 (1989) (per curiam). Rule 37 was reinstated in a revised form on January 1, 1991. *In re Reinstatement of Rule 37 of the Ark. Rules of Criminal Procedure*, 303 Ark. 746, 797 S.W.2d 458 (1990) (per curiam). The revised rule does not require petitioners to gain leave of this court before proceeding in the trial court.

Cite as 2010 Ark. 82

photocopy all or portions of it. An incarcerated person desiring a photocopy of a transcript or 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. *Gardner v. State*, 2009 Ark. 488 (per curiam); *Layton v. State*, 2009 Ark. 438 (per curiam).

Motion denied.