



The Court sentenced Defendant on the remaining convictions to a total of 5 years incarceration at Level V, to be suspended after 1 year for probation. On July 19, 1997, the Supreme Court affirmed Defendant's convictions on direct appeal.<sup>1</sup>

2. Defendant's motion, which is supported by an Affidavit to Proceed in *Forma Pauperis*, seeks production of transcripts of the "Opening Statements; Jury Instructions; Acquittal Discussion; Closing Arguments; and Jury's Verdict." Defendant states that he wants to review these transcripts in order to "raise arguments on newly discovered evidence, yet to be raised on appeal." It appears that this is the eighth motion for transcripts that Defendant has filed.

3. "There is no blanket constitutional right to a free transcript for the purpose of preparing a post-trial motion."<sup>2</sup> "The Constitution requires that materials such as transcripts are provided only after judicial certification that they are necessary to decide nonfrivolous issues in a pending case."<sup>3</sup> Superior Court Criminal Rule 61(d)(3) states that "[t]he judge may order the preparation of a transcript of any part of the prior proceedings in the case needed to determine whether the movant may be entitled to relief."<sup>4</sup>

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<sup>1</sup> *Fennell v. State*, 691 A.2d 624 (Del.1997).

<sup>2</sup> *State v. Allen*, 2002 WL 31814750, at \*1 (Del. Super. Nov. 4, 2002).

<sup>3</sup> *State v. Johnson*, 1999 WL 1568387, at \*1 (Del. Super. Feb. 8, 1999).

<sup>4</sup> Super. Ct. Crim. R. 61(d)(3).

Therefore, it is within the discretion of the judge who reviews the motion and the contents of the record whether to order preparation of a transcript.<sup>5</sup>

When a defendant fails to articulate facts that relate to “specific, nonfrivolous issues,” the Court will deny the motion.<sup>6</sup>

3. Defendant’s motion does not articulate any facts that relate to “specific, non-frivolous issues.” Accordingly, Defendant is not entitled to transcripts and his motion for transcripts at State’s expense is **DENIED**.

**IT IS SO ORDERED.**

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Judge

oc: Prothonotary  
cc: Investigative Services

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<sup>5</sup> *State v. Quill*, 1999 WL 1229313, at \*1 (Del. Super. Oct. 18, 1999).

<sup>6</sup> *State v. Perkins*, 2006 WL 2242698, at \*1 (Del. Super. May 31, 2006); *State v. Bishop*, 2006 WL 1360936, at \*1 (Del. Super. May 17, 2006); *Johnson*, 1999 WL 1568387, at \*1.