

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE :
 :
 v. : Cr. I.D. No. 0307008810
 :
 DOUGLAS W. FIELDS :
 :
 Defendant. :

ORDER

Upon Consideration of Defendant's *pro se* Request for Transcripts - DENIED

Submitted: April 3, 2006
Decided: July 17, 2006

Defendant has filed a request for transcripts of jury selection, voir dire, "cross selection of jury" arraignment, and hearing November 1, 2004, November 19, 2004 and December 22, 2004, transcripts.

(1) The record reflects that the defendant was found guilty of Assault First Degree, Possession of a Firearm During the Commission of a Felony, Burglary Second Degree, Possession of a Deadly Weapon by Person Prohibited and Resisting Arrest, on January 14, 2004. Defendant now asks that he be furnished with transcripts, at the expense of the State.

(2) Defendant cites as authority for his request Supreme Court Rule 26(f). That rule is not relevant as the Superior Court judgment was affirmed by the Supreme Court¹. The only remedy is Rule 61.

(3) There is no constitutional right to a free transcript for the purpose of preparing a

¹*Fields v. State*, Del. Supr., 889 A.2d 283, No. 53, 2004, Steele, C.J. (Nov. 28, 2005).

Rule 61 post-trial motion.²

(4) Superior Court Criminal Rule 61(d)(3) states: “[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.”³

(5) “It is within the discretion of the Judge who examines the motion and contents of the record to determine whether to order preparation of a transcript.”⁴

(6) This Court’s decisions in *State v. Doran*⁵ and *State v. Bordley*⁶ “make clear that when a defendant offers no factual basis and fails to clearly identify the fundamental rights he claims were violated, the Court will deny the motion.”⁷

²*State v. Quill*, 1999 Del. Super. LEXIS 514 (citing *State v. Bordley*, 1989 Del. Super. LEXIS 435.).

³DEL. SUPER. CT. CRIM. R. 61(d)(3).

⁴*Quill*, 1999 LEXIS at *3-4.

⁵*State v. Doran*, Del. Super., Nos. IN 90-08-1791, IN 90-08-1792, Barron, J. (June 12, 1992) (Order) (following the Court’s decision in *Bordley*, the Court denied the defendant’s motion holding that the motion was “general and unsupported by any specific claim or facts.”).

⁶*Bordley*, 1989 LEXIS at *4, (holding that where the “[d]efendant offers no factual basis or clear identification of any fundamental rights that were violated,” a court may deny a defendant’s motion for transcript of record.).

⁷*State v. Ketchum*, 2002 Del. Super. LEXIS 26 at *2.

(7) In the instant case, the defendant has offered no factual basis for his request. He has not made the requisite showing; therefore, the Defendant's *pro se* request for a transcript is DENIED.

IT IS SO ORDERED.

Judge Susan C. Del Pesco

Original to Prothonotary

xc: Loren C. Meyers, Esquire, Deputy Attorney General
Douglas W. Fields, Delaware Correctional Institute
Deborah L. Webb, Chief Deputy Clerk, Supreme Court
Kathleen Feldman, Chief Superior Court Reporter