

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

JAMIE L. MILLER

PETITIONER

V.

CIVIL ACTION NO.: 1:17CV88-SA-RP

**THE STATE OF MISSISSIPPI and
ATTORNEY GENERAL JIM HOOD**

RESPONDENTS

ORDER DENYING MOTION TO COMPEL

Petitioner has filed a motion requesting that an order issue compelling Respondents to produce Petitioner's state-court transcript and documents for inspection and copying. Doc. #11.

Federal law requires the court clerk to provide an indigent petitioner free "certified copies of such documents or parts of the record on file in his office as may be required by order of the judge before whom the application is pending." *See* 28 U.S.C. § 2250. Therefore, under the statute, whether to grant a request for a free transcript is a matter of the court's discretion.

As a constitutional matter, a petitioner has no right to a free copy of his trial transcript to "search for possible trial defects merely because he is an indigent." *Bonner v. Henderson*, 517 F.2d 135, 135 (5th Cir. 1975); *see also Deem v. Devasto*, 140 F. App'x 574, 575 (5th Cir. 2005) ("[T]here is no constitutional mandate that a habeas petitioner must be provided a free copy of his state habeas trial record."). Rather, an indigent prisoner is entitled to a free copy of his state court records only if he can establish that a copy of the records is necessary in order for him to present at least one of his claims. *Smith v. Beto*, 472 F.2d 164, 165 (5th Cir. 1972) ("[T]he petitioner has not shown that the district court erred in holding that he had not demonstrated a need for the trial transcript in proving a denial of effective counsel.").

The court finds that Petitioner has fully presented his claims to the court, and he has not shown any specific need for a copy of his entire state-court record. Additionally, this court has already ordered Respondents to file an answer or other responsive pleading in this matter, along with all relevant transcripts. Doc. #5. Therefore, the court will have the necessary records to review Petitioner's claims, and the instant motion [11] is **DENIED**.

SO ORDERED this the 29th day of August, 2017.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE