

Steve Sinatra MOORE v. STATE of Arkansas

CR 94-1183

921 S.W.2d 606

Supreme Court of Arkansas  
Opinion delivered May 20, 1996

1. CRIMINAL PROCEDURE — POSTCONVICTION RELIEF — PETITIONER MUST SHOW COMPELLING NEED FOR PHOTOCOPYING AT PUBLIC EXPENSE — PETITIONER DID NOT SHOW NEED FOR FREE PHOTOCOPIES. — A court is not required, under Ark. Code Ann. § 25-19-101 *et seq*, the Freedom of Information Act, to provide free of charge a copy of material on file with the court; a petitioner is not entitled to photocopying at public expense unless he demonstrates some compelling need for specific documentary evidence to support an allegation contained in a petition for postconviction relief; indigency alone does not entitle a petitioner to photocopying at public public expense; here,

petitioner offered nothing to demonstrate that photocopies of material on file with the supreme court should have been provided to him at no cost.

2. APPEAL & ERROR — APPEAL TRANSCRIPT REMAINS ON FILE IN CLERK'S OFFICE — ALL PERSONS, INCLUDING PRISONERS, BEAR COST OF PHOTOCOPYING. — When an appeal has been lodged in the appellate court, the appeal transcript and other material filed on appeal remain permanently on file with the supreme court clerk; persons may review a transcript and other material in the clerk's office and photocopy all or portions of it; an incarcerated person desiring a photocopy of an item on file may write to the supreme court and request that the copy be mailed to the prison; all persons, including prisoners, must bear the cost of photocopying.

Pro Se Motion for Photocopies at Public Expense Pursuant to the Freedom of Information Act (Ashley Circuit Court, *Stark Ligon*, Judge); denied.

*Appellant, pro se.*

No response.

PER CURIAM. Petitioner Steve Sinatra Moore was found guilty by a jury of engaging in a continuing criminal enterprise (CCE) and sentenced to forty years' imprisonment. A fine of \$5,000.00 was also imposed. We affirmed the judgment on direct appeal and reversed and remanded the case on cross-appeal, directing that the trial court reinstate the jury's verdict and sentence for the five predicate offenses of the CCE conviction which it had set aside. *Moore v. State*, 321 Ark. 249, 903 S.W.2d 154 (1995).

Petitioner Moore, who contends that he is indigent, now seeks pursuant to the Freedom of Information Act a photocopy at public expense of the briefs filed on direct appeal. He gives no reason for the request.

[1] We first note that Ark. Code Ann. § 25-19-101 *et seq.*, the Freedom of Information Act, does not require a court to provide free-of-charge a copy of material on file with the court. A petitioner is not entitled to photocopying at public expense unless he demonstrates some compelling need for specific documentary evidence to support an allegation contained in a petition for post-conviction relief. See *Austin v. State*, 287 Ark. 256, 697 S.W.2d 914 (1985); see *Chavez v. Sigler*, 438 F.2d 890 (8th Cir. 1971); see also *United States v. Losing*, 601 F.2d 351 (8th Cir. 1979). Indigency

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alone does not entitle a petitioner to photocopying at public expense. *Washington v. State*, 270 Ark. 840, 606 S.W.2d 365 (1980). The petitioner here has offered nothing to demonstrate that photocopies of material on file with this court should be provided to him at no cost.

[2] It should be noted that when an appeal has been lodged in this court, the appeal transcript and other material filed on appeal remain permanently on file with the clerk of the supreme court. Persons may review a transcript and other material in the clerk's office and photocopy all or portions of it. An incarcerated person desiring a photocopy of an item on file may write this court and request that the copy be mailed to the prison. All persons, including prisoners, must bear the cost of photocopying. *Austin v. State, supra*.

Motion denied.

DUDLEY, J., not participating.

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