

Daniel Lon GRAHAM *v.* STATE of Arkansas

CR 78-36

575 S.W. 2d 149

January 8, 1979

APPEAL & ERROR — BURDEN UPON PETITIONER TO SUPPLY TRANSCRIPT — COUNSEL'S RESPONSIBILITY TO ASSIST PETITIONER. — The burden of supplying a transcript of the proceedings at a petitioner's trial rests upon him, and his counsel's responsibilities include the taking of appropriate steps for obtaining a transcript of the record or a reconstruction thereof.

Order on Motion for Attorney's Fees.

Harold Hall, Public Defender, for petitioner.

Bill Clinton, Atty. Gen., by: *Joseph H. Purvis*, Deputy Atty. Gen., for respondent.

PER CURIAM

The court appointed attorney for petitioner has filed his motion for allowance of attorney's fees in this case upon the erroneous premise that he has fulfilled his duties in the present case. Counsel has taken our per curiam order of October 30, 1978, appearing in 264 Ark. at 489, 572 S.W. 2d 385, as a denial of a belated appeal. This is a misinterpretation of that order. The order concludes with the statement:

Appropriate action in this matter should be taken by the petitioner in the trial court.

The per curiam order of October 30, 1978 only denied the petitioner's petition to vacate his conviction and to discharge him, which was filed on September 7, 1978. It was the intention of this court by that per curiam order to point out that the burden of supplying a transcript of the proceedings at petitioner's trial rested upon him. Counsel's responsibilities include the taking of appropriate steps for obtaining a transcript of the record or a reconstruction thereof.

Petitioner's court appointed counsel is allowed a fee of \$300 for services to date and \$32.22 for our-of-pocket expenses.