

SUPREME COURT OF ARKANSAS

No. CR 05-609

MICHAEL MACKOOL

PETITIONER

v.

STATE OF ARKANSAS

RESPONDENT

Opinion Delivered January 28, 2010

PRO SE MOTION FOR PHOTOCOPY OF
TRIAL TRANSCRIPT AND OTHER
MATERIAL AT PUBLIC EXPENSE
[CIRCUIT COURT OF PULASKI
COUNTY, CR 2003-4140]

MOTION DENIED.

PER CURIAM

Petitioner Michael MacKool was convicted by a jury of murder in the first degree and theft of property and sentenced to an aggregate term of 720 months' imprisonment. We affirmed. *MacKool v. State*, 365 Ark. 416, 231 S.W.3d 676 (2006).

Now before us is petitioner's pro se motion seeking at public expense a copy of the transcript lodged on direct appeal.¹ Below his signature on the affidavit of indigency appended to the motion, petitioner continues his request for photocopies by asking for a copy of all files, letters, documents, and exhibits filed in the case.

As grounds for the motion, petitioner contends that he has valid issues to raise on appeal or in a postconviction petition. He argues that he deserves a new trial by virtue of new evidence and evidence kept from the jury. Petitioner sets out a number of allegations

¹For clerical purposes, the motion has been filed under the docket number assigned to the direct appeal of the judgment.



Cite as 2010 Ark. 44

concerning four persons, but he does not explain why a copy of the transcript or any other item on file with this court is needed to raise a particular claim. Moreover, he does not contend that there is some appeal or a postconviction remedy available to him at this time.

The motion is denied. Indigency alone does not entitle a petitioner to free photocopying. *Evans v. State*, 2009 Ark. 529 (per curiam); *Nooner v. State*, 352 Ark. 481, 101 S.W.3d 834 (2003) (per curiam). To be entitled to a copy of a trial transcript or other material at public expense, a petitioner must show a compelling need for the transcript or material to support an allegation contained in a timely petition for postconviction relief. *Avery v. State*, 2009 Ark. 528 (per curiam); *Bradshaw v. State*, 372 Ark. 305, 275 S.W.3d 173 (2008) (per curiam). Petitioner has not established a compelling need for the transcript or any other material on file with this court.

It should be noted that when an appeal has been lodged in either this court or the court of appeals, the transcript and all material related to the appeal remains permanently on file with our clerk. Persons may review the transcript and material in the clerk's office and photocopy all or portions of it. An incarcerated person desiring a photocopy of a transcript or material related to an appeal may write this court, remit the photocopying fee, and request that the copy be mailed to the prison. All persons, including prisoners, must bear the cost of photocopying. *Gardner v. State*, 2009 Ark. 488 (per curiam); *Layton v. State*, 2009 Ark. 438 (per curiam).

Motion denied.

BROWN, J., not participating.