

SUPREME COURT OF ARKANSAS

No. CACR 08-1313

ERNEST DEAN WADE
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
WASHINGTON COUNTY, CR 2007-
2434]

MOTION DENIED.

PER CURIAM

Petitioner Ernest Dean Wade was found guilty of being an accomplice to possession of drug paraphernalia with intent to manufacture a controlled substance. He was sentenced as a habitual offender to 360 months' imprisonment. The Arkansas Court of Appeals affirmed. *Wade v. State*, 2009 Ark. App. 560.

Now before us is petitioner's pro se motion seeking at public expense a copy of the complete transcript lodged on direct appeal and the docket sheet for the appeal.¹ The request includes all hearing records, mental health reports, and "evidence used." Appended to the motion is petitioner's affidavit of indigency.

As his sole ground for the motion, petitioner contends that the material he has

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



Cite as 2010 Ark. 45

requested is needed to adequately present his claims in the trial court pursuant to Arkansas Rule of Criminal Procedure 37.1. Petitioner sets out several conclusory allegations of ineffective assistance of trial counsel, 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.

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.