

SUPREME COURT OF ARKANSAS

No. CR-15-539

TRENCIE OLIVER

PETITIONER

V.

STATE OF ARKANSAS

RESPONDENT

Opinion Delivered May 2, 2019

PRO SE MOTION FOR COPIES AT
PUBLIC EXPENSE
[PULASKI COUNTY CIRCUIT COURT,
FOURTH DIVISION, NO. 60CR-14-1889]

MOTION DENIED.

ROBIN F. WYNNE, Associate Justice

Petitioner Trecie Oliver seeks at public expense a copy of all documents from his direct appeal, including the appellant’s brief on appeal.¹ Because Oliver has failed to comply with Rule 19 of the Arkansas Rules of Appellate Procedure–Criminal (2018), the motion is denied.

Rule 19 provides the following:

(a) A convicted offender who seeks, at public expense, a copy of an appellate brief, the trial record, or a transcript must file a motion in the Supreme Court stating that he or she has requested the documents from his or her counsel and that counsel did not provide the documents. In addition, if the moving party seeks a photocopy (as opposed to a disk or other electronic medium), he or she must demonstrate some compelling need for the brief, record, or transcript.

Here, while Oliver mentions the name of his attorney on direct appeal, he does not state that he has requested the documents he desires from counsel. Also, he has failed to contend that he has some compelling need for the documents.

¹In 2013, Oliver was found guilty of second-degree unlawful discharge of a firearm from a vehicle and possession of a firearm by certain persons. He was sentenced as a habitual offender to an aggregate term of 720 months’ imprisonment. On appeal, the Arkansas Court of Appeals remanded for clarification and correction of the sentencing order. *Oliver v. State*, 2016 Ark. App. 81. On remand, the trial court clarified and corrected the sentencing order. Oliver brought an appeal, and the court of appeals affirmed. *Oliver v. State*, 2016 Ark. App. 332, 498 S.W.3d 320.

Indigency alone does not entitle a petitioner to photocopies at public expense. *Scott v. State*, 2018 Ark. 75, 540 S.W.3d 279. To be entitled to copies at public expense, a petitioner must demonstrate a compelling need for the copies as documentary evidence to support an allegation contained in a timely petition for postconviction relief. *Johnson v. State*, 2018 Ark. 226, 549 S.W.3d 360. Oliver has cited no postconviction remedy available to him and has otherwise made no showing of a compelling need. If there is indeed a remedy available, he has not demonstrated that there is any particular issue that he cannot adequately raise to the court without access to the material he seeks. Accordingly, he has failed to show that a copy of material from the direct appeal should be provided to him at no cost. *Id.*

It should be noted that when material has been placed on file with either this court or the court of appeals, the material remains permanently on file with the clerk. Persons may review the material in the clerk's office and photocopy all or portions of it. An incarcerated person desiring a photocopy of material on file with the clerk may write to this court, remit the photocopying fee, and request that the copy be mailed to the prison. *Id.* All persons must bear the cost of photocopying unless this court has granted a motion for a copy of the requested material at public expense.

Motion denied.

Mullenix & Reardon, P.A., by: *D. Ryan Mullenix*; and *The Baxter Law Firm*, by: *Ray Baxter*.

Leslie Rutledge, Att'y Gen., by: *Evelyn D. Gomez*, Ass't Att'y Gen., for appellee.