

# ARKANSAS SUPREME COURT

No. CACR 07-985

PHILIP RASMUSSEN  
a/k/a Phillip Rasmussen  
Petitioner

v.

STATE OF ARKANSAS  
Respondent

Opinion Delivered April 2, 2009

PRO SE MOTION FOR PHOTOCOPY  
OF TRANSCRIPT AT PUBLIC  
EXPENSE OR ACCESS TO  
TRANSCRIPT [CIRCUIT COURT OF  
BAXTER COUNTY, CR 2007-23]

MOTION DENIED.

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## PER CURIAM

In 2007, petitioner Philip Rasmussen, who is also known as Phillip Rasmussen, was found guilty by a jury of second-degree battery and sentenced to 180 months' imprisonment. The Arkansas Court of Appeals affirmed. *Rasmussen v. State*, CACR 07-985 (Ark. App. June 25, 2008).

Petitioner, who contends that he is indigent, now seeks at public expense a copy of the trial transcript lodged on appeal or access to the transcript.<sup>1</sup> As grounds for the request, petitioner states that (1) he is unlawfully and unconstitutionally incarcerated; (2) he is actually innocent of the offense and requires the transcript to prove it; (3) his conviction is based on perjured testimony; (4) evidence favorable to the defense was suppressed by the prosecution; (5) trial error and unlawful procedures resulted in his conviction. No factual substantiation is provided for any of the claims and petitioner

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<sup>1</sup>For clerical purposes, the motion has been filed under the docket number assigned to the direct appeal of the judgment that was lodged in the Arkansas Court of Appeals. This court decides all motions for photocopying at public expense because such motions are considered to be requests for postconviction relief. *See Williams v. State*, 273 Ark. 315, 619 S.W.2d 628 (1981) (per curiam).

does not explain why he must have a copy of the transcript to raise the claims or if there is some postconviction remedy available to him in which to raise the claims.

Indigency alone does not entitle a petitioner to free photocopying. *Washington v. State*, 270 Ark. 840, 606 S.W.2d 365 (1980) (per curiam). A petitioner is not entitled to a photocopy of material on file with either appellate court unless he or she demonstrates some compelling need for specific documentary evidence to support an allegation contained in a petition for postconviction relief. *See Austin v. State*, 287 Ark. 256, 697 S.W.2d 914 (1985) (per curiam). Petitioner has not made a showing of compelling need for a copy of the transcript of his trial or access to a copy of the transcript.

It should be noted that when an appeal has been lodged in either this court or the court of appeals, the appeal transcript remains permanently on file with the clerk. Persons may review a transcript in the clerk's office and photocopy all or portions of it. An incarcerated person desiring a photocopy of a transcript 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. *Moore v. State*, 324 Ark. 453, 921 S.W.2d 606 (1996) (per curiam).

Motion denied.