

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 v.) ID No. 1906010188
)
 PAUL WILLIAMS,)
)
 Defendant.)

Date Submitted: October 1, 2020
Date Decided: October 22, 2020

ORDER

Upon consideration of Defendant’s *pro se* Motion for Transcripts and Affidavit in Support of Application to Proceed *In Forma Pauperis*, **IT APPEARS THAT:**

1. On October 1, 2020, Defendant filed a Motion for Transcripts along with an Affidavit in Support of Application to Proceed *In Forma Pauperis*.¹ In his Motion, Defendant asks the Court to produce his December 6, 2019 Suppression Hearing transcript and his December 17, 2019 Hearing transcript at the State’s expense.² In support of his Motion, Defendant states that he needs the requested transcripts for the following reasons: “Post Conviction Relief + Notice of Appeal.”³

¹ D.I. 40.

² *Id.*

³ *Id.*

2. To begin, “a defendant does not have a right to free transcript[s] in order to pursue postconviction relief in the absence of a showing of good cause.”⁴ The Constitution requires the Court to certify that transcripts “are necessary to decide non-frivolous issues in a pending case.”⁵ Further, Delaware Superior Court Criminal Rule 61(d)(4) provides that the Court “*may* order the preparation of a transcript of any part of the prior proceedings in the case needed to determine whether the movant may be entitled to relief.”⁶ It is therefore within the Court’s discretion to review a defendant’s motion and the record to determine whether transcripts should be prepared at State expense.⁷ “When a defendant offers no factual basis and fails to clearly identify the fundamental rights he claims were violated, the Court will deny the motion.”⁸ Here, Defendant’s Motion does not show the requisite good cause.⁹ Nor does it provide any basis—factual or legal—for Defendant’s desire to pursue postconviction relief.¹⁰ Accordingly, the Court declines to provide Defendant with

⁴ *Johnson v. State*, 2013 WL 6858400, at *1 (Del. Dec. 24, 2013) (citation omitted); *see also Demby v. State*, 2014 WL 4898138, at *2 (Del. Sept. 29, 2014) (citations omitted).

⁵ *State v. Russell*, 2019 WL 6248340, at *1 (Del. Super. Ct. Nov. 15, 2019) (internal quotation marks and citations omitted) (quoting *State v. Whitfield*, 2007 WL 3108331, at *1 (Del. Super. Ct. Oct. 23, 2007)).

⁶ Super. Ct. Crim. R. 61(d)(4) (emphasis added).

⁷ *Russell*, 2019 WL 6248340, at *1 (citation omitted).

⁸ *Id.* (brackets and internal quotation marks omitted) (quoting *State v. Allen*, 2002 WL 31814750, at *1 (Del. Super. Ct. Nov. 4, 2002)).

⁹ D.I. 40.

¹⁰ *Id.*

the requested transcripts at State expense for the purpose of pursuing postconviction relief.

3. Defendant also states that he needs the transcripts to pursue a direct appeal. In general, “indigent defendants have a right to transcripts at State expense on appeal.”¹¹ But “absent a showing that there is some legal or factual basis for relief and that there is a particularized need for a transcript on appeal, the Superior Court is within its discretion to deny a transcript at State expense.”¹² Defendant has failed to provide any reasons for wanting to pursue a direct appeal.¹³ So the Court cannot determine whether Defendant has a particularized need for the transcripts he requests.¹⁴ Accordingly, the Court declines to provide Defendant with the requested transcripts at State expense for the purpose of pursuing a direct appeal.

NOW THEREFORE, for the foregoing reasons, Defendant’s Motion for Transcript is **DENIED** without prejudice.

IT IS SO ORDERED.

¹¹ *Demby v. State*, 2014 WL 4898138, at *2 (Del. Sept. 29, 2014) (citing *Miller v. State*, 2008 WL 623236, at *2 (Del. Mar. 7, 2008)).

¹² *Robinson v. State*, 2003 WL 1869909, at *2 (Del. Apr. 10, 2003) (citing *United States v. MacCollum*, 426 U.S. 317, 330 (1976)).

¹³ D.I. 40.

¹⁴ *See State v. Monroe*, 2008 WL 3865338, at *1 (Del. Super. Ct. Aug. 12, 2008) (denying a request for transcripts when the defendant made no showing as to why he needed them).

Jan R. Jurden

Jan R. Jurden, President Judge

Original to Prothonotary

cc: Paul Williams (SBI# 00470169)
Colleen Durkin, DAG