

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-000743-MR

RICHARD MORGAN

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE REBECCA M. OVERSTREET, JUDGE
ACTION NO. 92-CR-00268 & 92-CR-00459

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

** ** *

BEFORE: GUIDUGLI, McANULTY, AND MINTON, JUDGES.

McANULTY, JUDGE. Appellant, Richard Morgan, brings this appeal from the trial court's denial of his motion for free videotapes or transcripts of his November, 1992 trial. We have considered the record and conclude that Appellant is not entitled to prevail. Therefore, we affirm the trial court's order of March 21, 2003.

On March 22, 2004, this appeal was assigned to the present panel for its determination on the merits. On September

12, 2003, Appellant sought by motions pending appeal the identical relief. On September 26, 2003, this Court denied Appellant's motion.

Appellant's brief cites no specific grievance post-conviction and direct appeal; rather he asserts a need to research grievances for the purpose of filing a subsequent habeas action in federal court. A prisoner is not entitled to a free-transcript merely for the purpose of searching it for grounds for a possible application for post-conviction or habeas corpus relief. Bentley v. United States, 431 F. 2d 250, 254 (6th Cir. 1970), cert. den. 401 U.S. 920, 91 S. Ct. 907, 27 L. Ed. 2d 823 (1971).

Appellant argues that the trial court erroneously applied our Supreme Court's holding in Gillian v. Commonwealth, Ky., 652 S.W.2d 856 (1983). The Court held in Gillian that "[t]he purpose of RCr 11.42 is to give post-conviction relief to a prisoner . . . who believes he has grounds for collateral attack on the judgment. . . . Thus the stated purpose of the rule is to provide a forum for known grievances, not to provide an opportunity to research for grievances." 652 S.W.2d at 858, (emphasis added).

Here, Appellant has not filed a RCr 11.42 motion,¹ however, the prohibition contained in Gillian, supra, would be equally appropriate to a free standing request for free transcripts.

We, therefore, affirm the order of the Fayette Circuit Court denying Appellant's motion for free trial transcripts.

ALL CONCUR.

BRIEF FOR APPELLANT:

Richard Morgan, Pro se
West Liberty, Kentucky

BRIEF FOR APPELLEE:

Albert B. Chandler III
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¹ The record established that a RCr 11.42 motion was filed on August 8, 1997, and adjudicated finally on June 18, 1999.