

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, STATE OF FLORIDA
CRIMINAL DIVISION

STATE OF FLORIDA,
Plaintiff,

v.

Case No.: CRC-1400216FAES

Division: 1 (J. Barthle)

CURTIS J. REEVES,
Defendant.

**MOTION REQUESTING ORDER FINDING ADMINISTRATIVE ORDER
2011-059, §(I)(4) PA/PI-CIR DOES NOT APPLY TO PARTIES SEEKING A WRIT
FROM A DISTRICT COURT OF APPEAL**

COMES NOW, the Defendant, CURTIS J. REEVES, by and through undersigned counsels, and requests an order declaring that Administrative Order 2011-059 PA/PI-CIR, § (I)(4), which states that “[a]ny transcript produced by the AOC or a contract court reporter will be filed with the Clerk of the Circuit Court unless the Court orders otherwise¹ or unless a rule of court provides otherwise,” does not require this Defendant to pay the additional thousands of dollars for a “copy” of the ordered hearing testimony transcripts so they may be filed with the Clerk of Circuit Court, or in the alternative for a waiver from said expense, and as grounds in favor of this Motion:

1. Following this Court’s ruling on Mr. Reeves’s motion requesting immunity from prosecution, the Defense began the process of challenging the order denying relief to the Second District Court of Appeal. A petition requesting a writ of prohibition is the proper vehicle for seeking appellate review of an order denying immunity from prosecution. *Little v. State*, 111 So. 3d 214, 216 n.1 (Fla. 2d DCA 2013).

¹ Emphasis added.

2. The procedure for initiating a proceeding requesting a writ of prohibition is markedly different from the one required to initiate a direct appeal. A party that requests a writ of prohibition from an appeals court must order the necessary transcripts, prepare and file a petition requesting a writ of prohibition, and then serve the State² (or the opposing party) with both the petition and the appendices. The petitioning party determines which pleadings, exhibits, and transcripts are to be included in the appendices.
3. Further, appendices are prepared by the petitioning party. The clerk of the circuit court is not involved in the preparation and compilation of the appendices.
4. In direct appeals, however, the party seeking appellate review files a notice of appeal, arranges for the necessary transcripts to be produced and filed with the Clerk of the Circuit Court, and then directs the Clerk to transmit the “record” containing the previously filed transcripts and compiled documents in the court file to the appeals court.
5. In the course of requesting the transcripts from the immunity hearing, undersigned counsel (Shah) was informed by a representative of the Administrative Office of the Courts (“AOC”) that both an “original” and a “copy” of said transcripts must be ordered under Administrative Order (“AO”) 2011-059 PA/PI-CIR, § (I)(4). The AOC representative further stated that pursuant to AO 2007-080 PA/PI-CIR, § 1, the price of the “original” would be \$5.00 per page and the “copy” would cost \$1.00 per page. The “copy,” the Defense was informed, was to be filed with the Clerk of the Circuit Court pursuant to the AOC’s interpretation of AO 2011-59, § (I)(4).
6. AOC estimated that the hearing testimony transcripts would total 2,700 pages. This means that the estimated cost of the “copy” to be filed with the Clerk of the Circuit Court

² Assistant State Attorney Glenn Martin stated he has no position on the relief requested in this Motion.

(“Clerk”) is \$2,700.

7. The AOC representative further stated that the cost of the “copy” must be paid for by the requesting party, which in this circumstance is Mr. Reeves.
8. Additionally, the AOC representative indicated that absent an order from this Court directing otherwise, the final transcripts would not be released to the Defense unless and until the cost of both an “original” and “copy” is paid in full. In other words, even if Mr. Reeves pays \$13,500 (i.e. 2,700 pages times \$5.00 per page), said “original” transcripts would not be given to him – unless there is a court order stating that a “copy” does not need to be filed with the Clerk.
9. This Motion requests that Mr. Reeves not be required to pay the several thousands of dollars for the “copy” that AOC intends on filing with the Clerk.
10. Given that administrative orders are “directive[s] necessary to administer properly the court’s affairs[,]” it is clear that in a case where (i) the petitioning party is solely responsible for preparing the appendices and (ii) the opposing party will be provided the entire transcripts, there is no need to compel a requesting party to pay for and file transcripts with the Clerk of the Circuit Court. Fla. R. Jud. Admin. 2.120 (c).
11. Further, there are compelling and equitable reasons why Mr. Reeves – a homebound retired law enforcement officer living on a fixed income – should not be directed to pay an additional (estimated) \$2,700 for the sole purpose of filing a “copy” with the Clerk.
12. Additionally, the Defense contends that although AO 2011-59 directs the filing of a “copy” with the Clerk of the Circuit Court, the plain language of Section I, subsection 4 does not compel the requesting party to pay the costs for said “copy.”

Requiring requesting parties to pay for a copy of a transcript is not necessary for the proper administration of the Court's affairs when said transcripts will be served on the State and filed with the Second District Court of Appeal

Given that an administrative order is “[a] directive necessary to administer properly the court’s affairs[,] but not inconsistent with the constitution or with court rules and administrative orders entered by the supreme court,” Fla. R. Jud. Admin. 2.120 (c), it is clear that AO 2011-059 does not require a requesting party situated like Mr. Reeves to pay for a “copy” so that the transcripts can be filed with the Clerk.

The filing of transcripts with the Clerk may serve the need for a circuit court to better facilitate the transmission of records to the Second District Court of Appeal when a party pursues a direct appeal. By their very nature, direct appeals normally require the submission of transcripts to the appellate court. These transcripts enable the reviewing District Court judges to determine whether a party’s arguments are supported by the record. If copies of developed transcripts are routinely filed with the Clerk, the court’s staff may be better prepared to compile, complete, and send any records on appeal to the Second District.

In this case, however, there is no need whatsoever for a copy of the transcripts to be filed with the Clerk. As noted above, the Defense will be preparing the appendices. The Clerk will not be involved in the preparation of the appendices.

Further, both the State and the Second District Court of Appeal will be provided copies of the hearing testimony transcripts. The Defense will file the transcripts, contained in appendices, with the Second District Court of Appeal along with the petition requesting a writ of prohibition. The State will also be served with the appendices, pursuant to Florida Rules of Appellate Procedure 9.100 (e) and (g) and 9.220. Given this, no legitimate reason remains to require Mr. Reeves to pay for a “copy” so that it can be filed with the Clerk. The Clerk has no use for them.

Similarly, if a direct appeal is taken in this case, the hearing testimony transcripts will not be part of the record on appeal.

Further, when the State receives the appendices containing the hearing testimony transcripts, they will become public records. *See, e.g. Farmer v. State*, 927 So. 2d 1075, 1076 (Fla. 2d DCA 2006). Likewise, the appendices containing the hearing testimony transcripts will become public records when the Defense files them with the Second District Court of Appeal. Fla.R.Jud.Admin. 2.420(a), (b)(1)(A), (b)(2). It therefore cannot be legitimately contended that applying AO 2011-059, § (I)(4) to Mr. Reeves, which the AOC states requires him to pay the estimated \$2,700 for the filing of a copy with the Clerk, is necessary to ensure public access to court proceedings.

Accordingly, interpreting AO 2011-059, § (I)(4) in a manner that would compel Mr. Reeves to pay for a “copy” before receiving the hearing testimony transcripts would not further the properly administration of the circuit court’s affairs.

Basic fairness compels the granting of a waiver for Mr. Reeves from the AOC’s position that they will not release any “original” transcripts unless and until he pays for a “copy” for filing with the Clerk

Given these circumstances, it would be unjust to require a party like Mr. Reeves to expend thousands of dollars for the sole purpose of enabling the filing of a “copy” of the hearing testimony transcripts with the Clerk. Mr. Reeves is a retired law enforcement officer. He and his wife Vivian are dependent on their respective fixed sources of income. He is also seventy-four (74) years old and subjected to home confinement, which makes him unable to generate any alternate means of income.

As made clear in this Motion, the State and the Second District Court of Appeal will be provided the hearing testimony transcripts. Those transcripts will eventually become public

records that the public can access.

Forcing a litigant of modest means like Mr. Reeves to expend thousands of additional dollars for the otherwise inconsequential and unneeded filing of a “copy” with the Clerk is fundamentally unfair and contrary to the spirit of the law. The Constitution of the State of Florida, specifically states that “[t]he courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.” Fla. Const. Art. I, § 21. This sacrosanct right should be interpreted and applied, when possible, to mean that parties will not face arbitrary barriers when they seek relief from a judicial body.

Here, the Defense was unambiguously warned that absent an order of this Court, unless and until Mr. Reeves expends an additional (estimated) \$2,700 - **absolutely no hearing testimony transcripts will be provided to him.** Mr. Reeves, without leave from this Court, cannot legally challenge this Court’s March 10, 2017 order - unless he pays thousands of additional dollars. Undersigned counsels submit that this is unfair and unjust.

It is therefore respectfully requested that even if the Court is not persuaded by the legal arguments presented in this Motion, Mr. Reeves still be given a waiver based on basic notions fairness and equity.

The plain language of AO 2011-059, § (I)(4) does not compel a requesting party to pay the cost of the “copy” to be filed with the Clerk

Administrative orders are legal directives that must be interpreted by the plain meaning of their words. The recognized principles on the proper interpretation of statutes and rules of court clearly support this proposition. It is a “well-established tenet of statutory construction that courts are not at liberty to add words to [a] statute that were not placed there by the Legislature.” *Lawnwood Medical Center, Inc. v. Seeger*, 990 So. 2d 503, 512 (Fla. 2008) (citations and internal quotation omitted). Further, “[w]hen a rule [of court] is clear and unambiguous, courts will not

look behind the rule's plain language or resort to rules of construction to ascertain intent.” *Weston TC LLLP v. CNDP Mktg. Inc.*, 66 So.3d 370, 375 (Fla. 4th DCA 2011). The same principles apply when this Court interprets AO 2011-059.

Here, section I, subsection 4 of AO 2011-059 states that “[a]ny transcript produced by the AOC or a contract court reporter will be filed with the Clerk of the Circuit Court unless the Court orders otherwise or unless a rule of court provides otherwise” does not, by its plain language, impose a requirement on the requesting party to pay for said “copy.” Only by adding words to this subsection can one come to the reasonable conclusion that the requesting party is financially responsible for the payment of the “copy” to be filed with the Clerk. When interpreting a legal authority, adding words is prohibited. *Seeger*, 990 So. 2d at 512.

Accordingly, Mr. Reeves should not be compelled to pay for a “copy” of each and every page of the transcripts for the purpose of filing them with the Clerk, as the language of the AO does not require it.

WHEREFORE, the Defendant, Curtis Reeves, respectfully requests that this Motion be granted and that he not be required to pay the “copy” fee of \$1.00 per page for the thousands of pages of hearing testimony transcripts as a condition precedent to his receipt of the “original” transcripts - the cost of which he will pay in full.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of this Motion Requesting Order Finding Administrative Order 2011-059 PA/PI-CIR, § (I)(4) Does Not Apply to Parties Seeking a Writ from a District Court of Appeal has been furnished by United States Postal Service to: the Office of the State Attorney for the Sixth Judicial Circuit, P.O. Box 5028, Clearwater, Florida 33758, this 29th day of March 2017.

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