

IN THE SUPREME COURT OF OHIO

12-1603

DENA G. LAMBERT,

Appellant,

v.

STATE OF OHIO,

Rappelled.

On Appeal from the Summit
County Court of Appeals,
Ninth Appellate District

Court of Appeals
Case No. 13846

FILED
SEP 20 2012
CLERK OF COURT
SUPREME COURT OF OHIO

MOTION FOR PREPARATION OF COMPLETE TRANSCRIPT
OF PROCEEDINGS AT STATE EXPENSE

Defendant-Appellant, Dena G. Lambert, hereby applies to the Court for an order directing the official court reporter of Summit County Court of Common Pleas, at state expense, to prepare and file a complete transcript of the proceedings in the above-styled case and to furnish a copy thereof to appointed counsel. The transcript shall include: all plea and pretrial proceedings with exhibits; all trial proceedings, including voir dire, opening statements, per-sentence investigation and police interrogations, court orders, discovery, police reports, psychological evaluation, bench conferences, jury instructions, and closing arguments; and all post-trial and sentencing investigations and proceedings.

The transcript is necessary to the effective pursuit of Defendant-Appellant's delayed appeal to the Supreme Court of Ohio. Defendant-Appellant is indigent and lacks the means to pay the cost of preparing such transcript from her own resources. Therefore, she is entitled to a complete transcript of proceedings at state expense. *Griffin v. Illinois* (1956), 351 U.S. 12.

Indigent defendants in the State of Ohio are constitutionally entitled to adequate and effective appellate review. *Griffin v. Illinois*, 351 U.S. At 19; *Mayer v. Chicago* (1971), 404 U.S. 189, 194. This review is "impossible without a trial transcript or adequate substitute." *Bounds v. Smith* (1977),

430 U.S. 817, 822. Thus, "there can be no doubt that the state must provide an indigent defendant with a transcript of prior proceedings when that transcript is needed for an effective defense or appeal." *Britt v. North Carolina* (1971), 404 U.S. 226, 227. Accord, *State v. Arlington* (1975), 42 Ohio St.2d 114, at paragraph one of the syllabus. In addition, the Ohio Supreme Court has determined that Section 16, Article I of the Ohio Constitution ensures a criminal defendant-appellant the availability of an unabridged transcript of proceedings. *State ex rel. Spiro v. Court of Appeals*(1986), 27 Ohio St.3d 13, 17.

In addition, a complete transcript of all proceedings is necessary for full consideration of the case on appeal because:

1. "When a defendant's new counsel represents the indigent on appeal, how can he/she faithfully discharge the obligation which the court has placed on him/her unless he/she can read the entire transcript?" *Hardy v. United States* (1964) 375 U.S. 278, 279-280.
2. "The right to notice 'plain error of defects' is illusory if no transcript is available at least to one who pro se lawyer on appeal enters the case after trial has ended." *Id.* At 280, citing *Boskey*, 45 Minn. L. Rev. 783, 792-793 (1961).

See also Mr. Justice Goldberg's concurrence in *Hardy*, supra for the following:

As any effective appellant advocate will attest, the most basic and fundamental tool of his/her profession is the complete trial transcript***.

Anything short of a complete transcript is incompatible with effective appellate advocacy. *Ibid.*

[T]he interests of equal justice and the viability of our adversarial system are impaired when an indigent defendant's access to a trial transcript is not as complete as that of a paying defendant. *Id.* At 290-292.

Defendant-Appellant further states that she is filing this **Notice of Appeal** as a layman at the law: that she lacks sufficient legal knowledge and information to file the docket statement properly: and that counsel, when appointed, would be able to submit the Docket Statement to this court.

As an indigent, Defendant-Appellant is without means and is unable to pay the cost of preparing a transcript from her own resources. For these reasons Defendant-Appellant is entitled to the

preparation of a complete transcript at state expense. Defendant-Appellant further moves this Honorable Supreme Court for an order directing the court reporter of Summit County Court of Common Pleas to provide a copy of that transcript to appellate counsel, at state expense.

Respectfully submitted,

Dena G. Lambert

Dena G. Lambert, In Pro Se
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DEFENDANT-APPELLANT

CERTIFICATE OF SERVICE

I certify a copy of the foregoing **MOTION FOR PREPARATION OF COMPLETE TRANSCRIPT OF PROCEEDINGS AT STATE EXPENSE** has been sent by regular U.S. Mail to the Supreme Court of Ohio at 65 South Front Street, Columbus, Ohio 43215-3431, this 13 day of September, 2012.

Respectfully submitted,

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