

[Cite as *State v. Reynolds*, 2004-Ohio-2954.]

IN THE COURT OF APPEALS FOR MONTGOMERY COUNTY, OHIO

STATE OF OHIO	:	
Plaintiff-Appellee	:	C.A. Case No. 19964
vs.	:	T.C. Case No. 96-CR-1187
BILLY RAY REYNOLDS	:	(Criminal Appeal from Common
	:	Pleas Court)
Defendant-Appellant	:	

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OPINION

Rendered on the 4<sup>th</sup> day of June, 2004.

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MATHIAS H. HECK, JR., Prosecuting Attorney, By: CARLEY J. INGRAM, Assistant Prosecuting Attorney, Atty. Reg. #0020084, Appellate Division, P.O. Box 972, 301 W. Third Street, 5<sup>th</sup> Floor, Dayton, Ohio 45422  
Attorneys for Plaintiff-Appellee

BILLY RAY REYNOLDS, #446-418, Chillicothe Correctional Institution, P.O. Box 5500, Chillicothe, Ohio 45601  
Defendant-Appellant, Pro Se

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BROGAN, J.

{¶1} Billy Ray Reynolds appeals from the judgment of the Montgomery County Common Pleas Court denying his request for a copy of his trial transcript.

{¶2} Reynolds was originally convicted of robbery in 1996 and sentenced to prison for a indefinite term of 4-15 years. His conviction was affirmed by us in *State v.*

*Billy Ray Reynolds* (June 27, 1997), Mont. App. No. 16110. On September 18, 1997, we denied Reynolds' motion to reopen his appeal on a claim by Reynolds that his appellate counsel was constitutionally ineffective.

{¶3} On June 17, 2003 Reynolds moved for a copy of the trial transcript at State's expense. He filed a notice of appeal from the original judgment of conviction the following day. We later treated this notice of appeal as a premature appeal of the trial judge's refusal to provide him with a copy of the transcript which the trial court entered on July 1, 2003.

{¶4} Only one copy of a transcript of a criminal trial need be provided to an indigent criminal defendant. *State ex rel. Call v. Zimmers* (1999), 85 Ohio St.3d 367, 1999-Ohio-386, 708 N.E.2d 711; *State ex rel. Grove v. Nadel* (1998), 81 Ohio St.3d 325, 326, 1998-Ohio-541, 691 N.E.2d 275, 276; *State ex rel. Murr v. Thierry* (1987), 34 Ohio St.3d 45, 45-46, 517 N.E.2d 226, 227. An indigent prisoner has a right to relevant portions of a transcript, but only in connection with a pending action. *State ex rel. Call v. Zimmers, supra*; *State ex rel. Murr v. Thierry, supra*. Since Reynolds had no actions pending, he had no right to a copy of the transcript.

{¶5} R.C. 149.43(B)(4) allows an incarcerated defendant to have a free copy of trial records in certain circumstances. These circumstances do not apply to Reynolds since the trial court did not make a finding that a copy of the transcript was necessary for Reynolds to advance a colorable claim for relief.

{¶6} The judgment of the trial court is affirmed.

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FAIN, P.J. and YOUNG, J., concur.

Copies mailed to:

Carley J. Ingram  
Billy Ray Reynolds  
Hon. Jeffrey Froelich