

[Cite as *State v. Majid*, 2015-Ohio-2406.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 102154

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

ARIF MAJID

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-05-474447-A

BEFORE: McCormack, J., Kilbane, P.J., and Boyle, J.

RELEASED AND JOURNALIZED: June 18, 2015

FOR APPELLANT

Arif Majid, pro se
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ATTORNEYS FOR APPELLEE

Timothy J. McGinty
Cuyahoga County Prosecutor

By: Amy Venesile
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TIM McCORMACK, J.:

{¶1} Defendant-appellant, Arif Majid, appeals the trial court's judgment denying Majid a transcript of his resentencing at public expense.

{¶2} Majid was convicted in 2007 of numerous charges, including murder and mass murder, and sentenced to a cumulative prison term of 43 years to life. In June 2009, this court reversed Majid's convictions and remanded for a new trial due to jury misconduct in *State v. Majid*, 182 Ohio App.3d 730, 2009-Ohio-3075, 914 N.E.2d 1113, ¶ 33 (8th Dist.). In May 2011, upon retrial, Majid was convicted of murder and attempted murder, with firearm specifications, as well as having weapons under disability. He was sentenced once again to a cumulative prison term of 43 years to life. In March 2012, on appeal, this court affirmed the judgment in part, reversed in part, and remanded to the trial court for the limited purpose of resentencing as to each of the firearm specifications in *State v. Majid*, 8th Dist. Cuyahoga No. 96855, 2012-Ohio-1192. Majid was resentenced on December 20, 2012, and he did not appeal his resentencing.

{¶3} On September 4, 2014, Majid filed a motion for preparation of a complete transcript of resentencing proceedings at the state's expense, claiming the trial court did not adhere to this court's order upon remand. The trial court denied Majid's motion. Majid appealed the trial court's denial of his motion, claiming he was denied fair and

impartial trial proceedings when, as an indigent defendant, he was denied the record and transcripts of the December 2012 resentencing.

{¶4} Initially, we note that the trial court's denial of a motion for a transcript at the public's expense is a final, appealable order. *State v. Clark*, 2d Dist. Clark No. 97CA27, 1998 Ohio App. LEXIS 2695 (June 19, 1998), citing *State v. Tripodo*, 50 Ohio St.2d 124, 127, 363 N.E.2d 719 (1977).

{¶5} An indigent prisoner is entitled to relevant portions of a transcript upon appeal or in seeking postconviction relief. *State ex rel. Partee v. McMahon*, 175 Ohio St. 243, 193 N.E.2d 266 (1963). This right, however, is subject to certain limitations. The appeal or postconviction action must be presently pending before a court. *State v. Bayles*, 8th Dist. Cuyahoga No. 88094, 2007-Ohio-1008, ¶ 9, citing *State ex rel. Murr v. Thierry*, 34 Ohio St.3d 45, 517 N.E.2d 226 (1987).

{¶6} Here, Majid was resentenced in December 2012. Majid's time for filing a direct appeal of his resentencing has long expired, and he presently has no postconviction action pending in a court. Majid is therefore not entitled to a transcript of the resentencing hearing at public expense.

{¶7} Majid's assignment of error is overruled.

{¶8} Judgment affirmed.

It is ordered that appellee recover of appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

TIM McCORMACK, JUDGE

MARY EILEEN KILBANE, P.J., and
MARY J. BOYLE, J., CONCUR