

COURT OF APPEALS OF TEXAS, TWELFTH COURT OF APPEALS
DISTRICT, TYLER

Reginald Montrelia Wickware v. The State of Texas

No. 12-22-00180-CR · No. 12-22-00180-CR · Decided January 20, 2023

SUMMARY

The Twelfth Court of Appeals ordered the trial court to determine whether Reginald Montrelia Wickware was indigent and entitled to receive the reporter's record without charge. The court also required findings regarding payment arrangements if he was not entitled to a free record and directed the filing of supplemental records and a hearing transcript.

CASE DETAILS

COURT	Court of Appeals of Texas, Twelfth Court of Appeals District, Tyler
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Texas
DECIDED	January 20, 2023
DOCKET	12-22-00180-CR
DISPOSITION	remanded
PROCEDURAL POSTURE	Appellant appealed his conviction for aggravated sexual assault of a child. During the appeal, the appellate record was delayed because of uncertainty over payment of the reporter's-record preparation fee.
PRECEDENTIAL VALUE	published
PARTIES	Reginald Montrelia Wickware v. The State of Texas

TOPICS

appellate procedure

criminal procedure

PRACTICE AREAS

criminal appellate procedure

indigency and access to appellate records

QUESTIONS PRESENTED

- Whether the trial court must determine whether Appellant is indigent and entitled to receive the reporter's record without charge when the appellate record is delayed because of nonpayment.

2. Whether indigency for appointment of counsel establishes indigency for purposes of obtaining a free appellate record.

HOLDINGS

1. A determination of indigency for appointment of counsel and a determination of indigency for obtaining a free appellate record are discrete inquiries; a defendant may be indigent for one purpose without being indigent for the other.
2. The trial court must conduct a hearing and make written findings and conclusions concerning whether Appellant is entitled to a reporter's record without charge and, if not, when he will make acceptable payment arrangements.

KEY QUOTATIONS

“Determining indigency for purposes of appointing counsel and indigency for purposes of obtaining a free record are discrete inquiries[.]” (at 5-6)

“A defendant can be found indigent for one purpose without being found indigent for the other.” (at 6)

FACTUAL BACKGROUND

Wickware was convicted of aggravated sexual assault of a child and appealed. He had been found indigent in the trial court, but after the trial court appointed appellate counsel, his family retained private counsel. The reporter's record was delayed because the preparation fee had not been paid, and the record did not establish whether Wickware had sought or qualified for a free appellate record.

PROCEDURAL HISTORY

The trial court initially appointed counsel for Appellant, but Appellant later retained Niles Illich. Although Appellant was found indigent in the trial court, the clerk's record did not show that he had moved for a free appellate record or that the trial court had determined him indigent for purposes of obtaining one. The court reporter filed multiple motions for extensions because the required preparation fee had not been paid. The appellate court ordered the trial court to conduct an indigency hearing and make written findings regarding Appellant's entitlement to a free reporter's record or, alternatively, acceptable payment arrangements.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The trial court was ordered to conduct a hearing on or before February 2, 2023, and make written findings of fact and conclusions of law concerning whether Appellant was indigent and entitled to a reporter's record without charge and, if not, the date he would make acceptable payment arrangements. A supplemental clerk's record containing the findings, supporting documentation, and orders, and a reporter's record of the hearing were ordered to be filed with the appellate court by February 9, 2023.

CASES CITED

- McFatridge v. State, 309 S.W.3d 1, 5-6 (Tex. Crim. App. 2010)
- Goley v. State, No. 07-18-00145-CR, 2018 WL 3766796, at *1-2 (Tex. App.—Amarillo Aug. 8, 2018, order) (per curiam)

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