

[CAPTION]

**VERIFIED PETITION TO PROCEED AS A PAUPER FOR PURPOSES OF
EXPENSES**

The Petitioner, by counsel, petitions the court to make a determination of indigency and grant him leave to proceed as a pauper in this cause. In support of the Petition, the Petitioner states the following:

1. Although the Petitioner is represented by private counsel in this matter, petition is in fact indigent, and has not personal assets in his name other than those described in the attached affidavit attached and incorporated herein as Exhibit A.
2. A third party is paying undersigned counsel's legal fees, which does not include the costs of preparation of the transcript.
3. On [insert date], the Petitioner filed a Petition for Post-Conviction Relief in this matter. In order to perfect the Petition for Post-Conviction Relief, a transcript of all proceedings in the above-captioned cause is necessary. Bahm v. State, 789 N.E.2d 50 (Ind.Ct.App. 2003) (post-conviction counsel was ineffective when he failed to present any evidence, including the transcript of the proceeding), *explained by* Mitchell v. State, 946 N.E.2d 640, 644-45 (Ind.Ct.App. 2011) (because of the 2010 amendment to Rule of Evidence 201(b)(5), courts can now take judicial notice of a transcript); Graham v. State, 941 N.E.2d 1091, 1097 n.2 (Ind. Ct. App. 2011) (even though the courts can take notice of the transcript, the transcript should be made part of the record for appeal).
4. The County's public defender comprehensive plan in order to qualify for State reimbursement pursuant to I.C. 33-40-7-11(d), must comply with the Indiana Public Defenders Commissions (Standards for Indigent Defense Services in Non-Capital Cases)", standard N which provides as follows:

The comprehensive plan shall authorize expenditures for investigative, expert, or other services for a person who has retained private counsel for a trial or appeal when the person is unable to pay for the services and such services are necessary to prepare and present an adequate defense. Such services are eligible for reimbursement from the public defense fund if authorized by the Court.

5. In order to qualify for any reimbursement of public defender expenditures, the County must comply with this standard.
6. It would be a denial of equal protection, due process and effective assistance of counsel to deny the Petitioner access to a transcript of the proceedings, thereby denying him his post-conviction relief proceedings simply because he cannot afford the preparation of the transcript. U.S. CONST. AMEND. V, VI, and XIV; IND. CONST., Art I, section 12, 13 and 23.

WHEREFORE, the Petitioner, by counsel, respectfully request this Court grant him leave to proceed as a pauper in this matter, to waive costs and fees for the preparation of the pleadings and transcript of this cause, and for all other relief just and proper in the premises.

(Signature)

VERIFICATION

Under penalty of perjury, the foregoing representations are true and accurate to the best of my knowledge and belief.

(Attorney Signature)

NOTE

For a review of the case law and a legal analysis, see *Memorandum in Support of Verified Petition to Proceed as a Pauper*.

CASE LAW

Schuck v. State, 53 N.E.3d 571 (Ind.Ct.App. 2016) (trial court abused its discretion by denying Motion for Public Funds for investigation expenses, where Defendant hired private counsel but could not afford to hire investigator and adequately showed how he would benefit from an investigator; further, Defendant's private attorneys were not required to first get permission from local public defender's office before asking trial court for public funds).

Beauchamp v. State, 788 N.E.2d 881 (Ind.Ct.App. 2003) (trial court urged to reconsider ruling, in event of retrial, denying a requests for funds for a forensic pathologist, ophthalmologist, and a pediatric neurologist made by Beauchamp who hired a private attorney but could not afford experts; the State's case hinged on inferences from opinions of six medical doctors with various specialties and the charge was serious, a Class B felony).