FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

T. ROBERT NELSON,	)	
Petitioner,	)	Filed February 22, 1979
vs.	)	
MURRAY S. UNDERWOOD, as Judge of the District Court of Iowa for Osceola County,	)	36 2-62147
Respondent.	)	

Certiorari to Osceola District Court - Murray S. Underwood, Judge.

Petitioner in original certiorari proceeding attacks denial by respondent judge of application for appointment of counsel at public expense to assist in pursuing an appeal from a criminal conviction. Writ sustained.

Thomas O. Albers of Rock Rapids, for petitioner.

Thomas J. Miller, Attorney General; Dale E. Skiver, Osceola County Attorney; and Rick Zito of Sibley; for respondent.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Petitioner in this original certiorari proceeding attacks respondent's denial of his application for appointment of counsel at public expense to assist him in pursuing an appeal from a criminal conviction and the denial of a similar request for transcript and printing costs. He asserts that respondent acted illegally in finding that he was not indigent, or, in the alternative, in not appointing counsel pursuant to § 336B.6, The Code.

Petitioner's financial statements reveal that he possessed substantial assets and a significant net worth, but that these assets were under the control of a federal backruptcy trustee and a state court equity receiver. His income was shown to be $500 per month or less. While the record supports respondent's conclusion that petitioner is not indigent for purposes of employing counsel, this is not dispositive of the issues presented. Petitioner's request for appointment of an attorney should be disposed of on the basis recommended in Sill v. District Court, 184 N.W.2d 699, 701 (Iowa 1971) (LeGrand and Becker, JJ. concurring). It is there stated with respect to a similar application for appointment of counsel:

> "Under our new statute (336B.6) it is immaterial whether this finding [of indigency] is right or wrong. That law requires the appointment of an attorney for any person asking it even if such person is financially able to employ a lawyer privately. In such case the reasonable amount of the fee is taxed as part of the court costs against him. It appears this section fits the present situation exactly."

For the same reasons we find this statute fits the present case as well.

More difficulty is presented by that portion of the application requesting costs of a transcript and printing in order to pursue the appeal. This is because § 336B.6 refers only to attorney fees and not to other costs of pursuing an appeal. Section 814.9, Supplement to the Code, 1977, requires a finding of indigency in order for an appealing defendant to obtain a transcript at county expense. We conclude, however, that the transcript costs and printing costs should be advanced by the county in which petitioner was tried and taxed as costs against petitioner in the same manner that the attorney fee is taxed pursuant to § 336B.6. To distinguish between the attorney fee and the other costs in this regard would serve to substantially interfere with petitioner's right to counsel under § 336B.6. In so holding, we note that in the statement of proceedings contained in the appendix pursuant to Rule 10(c), R. App. P., it is stated:

> "Defendant [petitioner], at all times, has been willing to have the trial court order that he repay any sums expended for the prosecution of his appeal from public funds."

For the reasons herein stated, the writ of certiorari is sustained. The order under review is annulled and this cause is remanded to the respondent court for an order appointing counsel for petitioner, furnishing transcript, and perforce the printing cost of appendix and briefs essential to a meaningful appeal. Such items shall be taxed as costs against the petitioner.

Writ sustained, order annulled, and cause remanded.