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STATE CAPITOL
PHOENIX, ARIZONA

October 24, 1967

DEPARTMENT OF LAW LETTER OPINION NO. 67-38-L (R-61)

REQUESTED BY: WILLIAM J. SCHAFER, III
Pima County Attorney

QUESTION: Who pays for the reporter's
testimony when the State appeals
under the provisions of A.R.S.
§13-1712?

ANSWER: (See body of opinion)

As far as payment for the reporter's transcript is concerned, there is no distinction between an appeal by the state and an appeal by the defendant.

Subsection C of A.R.S. §12-224 provides as follows:

"The reporter, when requested in advance, shall furnish free of charge to the county attorney or the attorney general a copy of the transcript of testimony when a transcript is made on an appeal in a criminal case, and to the attorney general when the state is a party."

As can be seen from a reading of this subsection, it makes no distinction between an appeal by the state and an appeal by the defendant. When requested in advance, the reporter shall furnish a transcript free of charge to the county attorney or to the attorney general, no matter which party appeals.

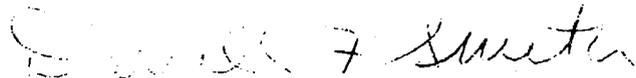
A.R.S. §13-1714 provides as follows:

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"The expense of a certified copy of the record on appeal or of the reporter's transcript, or both, when appellant files an affidavit that he is without means or wholly unable to pay for such copies, and such affidavit is found true, shall be a charge upon the county in which the appellant was convicted."

Although the statute uses the word "appellant," it is apparent that the defendant in a criminal case is meant, regardless of whether he appeals or the state appeals. Otherwise, the purpose of the statute would be defeated.

Respectfully submitted,



DARRELL F. SMITH
The Attorney General

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