



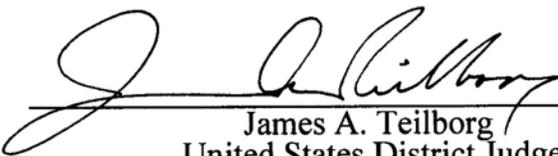
1 persons permitted to appeal *in forma pauperis* shall also be paid by the United States if the  
2 trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a  
3 substantial question). 28 U.S.C. § 753(f) (parenthetical in original). The rule's purpose is  
4 to prevent the waste of taxpayer dollars on transcripts for use in baseless appeals. The Court  
5 therefore must determine whether Plaintiff's proposed appeal has some merit before it directs  
6 the government to pay for his transcripts.

7       The Plaintiff must articulate some ground for appeal that requires transcripts before  
8 the Court will subject the government to that expense. Plaintiff has the burden of  
9 demonstrating nonfrivolity and substantiality of the claims. *See Maloney v. E.I. Du Pont de*  
10 *Nemours & Co.*, 396 F.2d 939, 940 (D.C. Cir. 1967). Plaintiff has failed to demonstrate that  
11 his proposed appeal is nonfrivolous or presents a substantial question. In his motion,  
12 Plaintiff failed to state what issues he proposes to appeal. Thus, the Court is unable to  
13 determine from the face of the motion whether his reason for obtaining the transcripts is  
14 substantial and nonfrivolous. The Court therefore will deny the motion without prejudice to  
15 Plaintiff refileing to make the required showing that his appeal is nonfrivolous and presents  
16 a substantial question.

17       Accordingly,

18       IT IS ORDERED DENYING Plaintiff's Motion Requesting the Release of Trial  
19 Transcripts Regarding the Proceedings of Jury Day 2 Afternoon Session Held on August 13,  
20 2008 (Doc. #181) without prejudice to refileing to make the required showing.

21       DATED this 20th day of November, 2008.

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26       James A. Teilborg  
27       United States District Judge  
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