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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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John Steven Simon,

) No. CV 09-701-PHX-JAT

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Plaintiff,

) **ORDER**

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vs.

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City of Phoenix; et al.,

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Defendants.

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Pending before this Court is Plaintiff’s Motion for the Clerk of the Court to Forward the Entire Docket, all Original Papers, and the Transcripts and Judgment to the Court of Appeals. To the extent Plaintiff is seeking to have the Clerk of the Court compile his excerpts of record for him for his appeal, that request is denied.

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To the extent Plaintiff is seeking a copy of certain transcript(s) for free, as a result of his in forma pauperis status, that request is denied without prejudice. Specifically, Plaintiff may file a new motion, within 14 days, if he can meet the test of 28 U.S.C. § 753(f). The statute provides that “[f]ees for transcripts furnished in other proceedings to persons permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question). 28 U.S.C. § 753(f) (1996) (parenthetical in original). More particularly, when proceeding *in forma pauperis*, transcripts cannot be provided merely to allow a plaintiff to search for grounds for relief. *Bonner v. Henderson*, 517 F.2d 135, 135 (5th Cir. 1975) (per curiam).

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1 Instead, Plaintiff has the burden of demonstrating nonfrivolity and substantiality of the
2 claims. *See Maloney v. E.I. Du Pont de Nemours & Co.*, 396 F.2d 939, 940 (D.C. Cir. 1967).

3 Accordingly,

4 **IT IS ORDERED** that Plaintiff's Motion for the Clerk of the Court to Forward the
5 Entire Docket, all Original Papers, and the Transcripts and Judgment to the Court of Appeals
6 (Doc. 144) is denied in part with prejudice and denied in part without prejudice to re-filing,
7 as specified above.

8 DATED this 4th day of March, 2013.

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James A. Teilborg
Senior United States District Judge