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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Joe Newman,

10 Plaintiff,

11 v.

12 Show Low Police Department, et al.,

13 Defendants.
14

No. CV-13-08005-PCT-JAT

ORDER

15 The Court previously granted Plaintiff in forma pauperis status at the outset of this
16 case when the only inkling as to the nature of Plaintiff's claims was in his complaint.
17 (Doc. 6). Since that time, this case has progressed through numerous motions, discovery,
18 and a grant of summary judgment in Defendants' favor. Plaintiff has appealed to the
19 Ninth Circuit Court of Appeals, and Plaintiff now moves for the production of transcripts
20 in support of his appeal at government expense. (Doc. 93).

21 28 U.S.C. § 753(f) provides: "Fees for transcripts furnished in other proceedings
22 to persons permitted to appeal in forma pauperis shall also be paid by the United States if
23 the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a
24 substantial question)." The Ninth Circuit Court of Appeals has held that an order
25 "directing production of a transcript at government expense pursuant to § 753(f)
26 implicitly embodies a finding by the court that the appeal presents a substantial issue."
27 *Henderson v. United States*, 734 F.2d 483, 484 (9th Cir. 1984); accord *Popescu v. City of*
28 *San Diego*, 2012 WL 37166, at *1 (S.D. Cal. Jan. 6, 2012).

1 The Court is now thoroughly familiar with the legal and factual theories of
2 Plaintiff's case, and finds that Plaintiff's appeal does not present a substantial issue.
3 Plaintiff failed to present evidence showing a disputed issue of material fact regarding the
4 circumstances of his arrest. Plaintiff's dogged insistence that the video of his arrest has
5 been falsified is unsupported by competent evidence. The Court further finds that
6 Plaintiff's case is frivolous. Accordingly, Plaintiff is not entitled to a waiver of the
7 transcript fees.

8 For the foregoing reasons,

9 **IT IS ORDERED** denying Plaintiff's motion for a waiver of transcript fees (Doc.
10 93).

11 Dated this 17th day of September, 2015.

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James A. Teilborg
Senior United States District Judge