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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 LATWAHN McELROY,

12 Plaintiff,

13 v.

14 ROY COX, et al.,

15 Defendants.
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1:08-cv-01221-LJO-GSA-PC

**ORDER DENYING PLAINTIFF'S MOTION
FOR TRIAL TRANSCRIPT
(ECF NO. 169.)**

17 **I. RELEVANT PROCEDURAL HISTORY**

18 Latwahn McElroy ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
19 *pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. District Judge
20 Lawrence J. O'Neill presided over a jury trial in this case. On June 19, 2012, the jury returned
21 a unanimous verdict in favor of the defendants.

22 On September 27, 2018, Plaintiff filed a motion for the court to provide him with a
23 transcript of the trial. (ECF No. 169.)

24 **II. MOTION FOR TRANSCRIPT**

25 **A. Legal Standard**

26 To obtain a transcript at government expense, Plaintiff must satisfy the criteria of 28
27 U.S.C. § 753(f). Section 753(f) provides, in part, that the United States shall pay the fees for
28 transcripts furnished in civil proceedings to persons permitted to appeal *in forma pauperis*

1 (IFP) if the trial judge or a circuit judge certifies that the appeal is not frivolous (i.e., it presents
2 a substantial question). § 753(f). This requirement is applicable to pro se litigants. See Morris
3 v. Long, No. 1:08-cv-01422-AWI-MJS, 2012 WL 5208503, at *1 (E.D. Cal. Oct. 22, 2012)
4 (finding that the *pro se* litigant proceeding *in forma pauperis* was required to “identify the
5 issues he intends to raise on appeal and explain why those issues are meritorious in order to
6 meet the . . . standard [for production of trial transcripts at government expense].”); Woods v.
7 Carey, No. CIV S-04-1225 LKK GGH P, 2009 WL 2905788, at *1 (E.D. Cal. Sept. 4, 2009)
8 (same).

9 **B. Plaintiff’s Motion**

10 Plaintiff requests the court to provide him with a transcript of the trial in this case.
11 Plaintiff states that the court did not send him a transcript of the trial and that he will need one
12 for appellate review.

13 Plaintiff has already received approval to proceed *in forma pauperis* (ECF No. 4), and
14 there is no indication in the record that his financial situation has changed. However, Plaintiff
15 has not alleged that his appeal presents a substantial issue. The motion simply states that he
16 needs a copy of the transcript for appellate review. There is no mention of the issues on appeal,
17 let alone an argument that the issues on appeal are substantial. Therefore, Plaintiff’s motion
18 shall be denied.

19 **III. CONCLUSION**

20 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff’s motion for a
21 transcript of his trial, filed on September 27, 2018, is DENIED.

22 IT IS SO ORDERED.

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24 Dated: October 18, 2018

/s/ Gary S. Austin
25 UNITED STATES MAGISTRATE JUDGE
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