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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

IVAN RAY CARTER, JR.,

CASE NO. 1:08-cv-01841-SKO PC

Plaintiff,

ORDER DENYING PLAINTIFF’S MOTION
FOR TRANSCRIPT AT GOVERNMENT
EXPENSE

v.

FERNANDEZ, REYNAGA, CARRILLO,
CEASEAR, AND JONES,

(Doc. 192)

Defendants.

Following a two-day trial by jury, judgment was entered for Defendants and against Plaintiff on April 20, 2012, and Plaintiff filed a notice of appeal on May 1, 2012. On June 13, 2012, Plaintiff filed a motion seeking the trial transcript at government expense.

A litigant who has been granted in forma pauperis status may move to have transcripts produced at government expense. Two statutes must be considered whenever the district court receives a request to prepare transcripts at the government’s expense. First, 28 U.S.C. § 1915(c) defines the limited circumstances under which the Court can direct payment the government to pay for transcripts for a litigant proceeding in forma pauperis.

(c) Upon the filing of an affidavit in accordance with subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b), the court may direct payment by the United States of the expenses of (1) printing the record on appeal in any civil or criminal case, if such printing is required by the appellate court; (2) preparing a transcript of proceedings before a United States magistrate judge in any civil or criminal case, if such transcript is required by the district court, in the case of proceedings conducted under section 636(b) of this title or under section 3401(b) of title 18, United States Code; and (3) printing the record on appeal if such printing is required by the appellate court, in the case of

1 proceedings conducted pursuant to section 636(c) of this title. Such expenses shall
2 be paid when authorized by the Director of the Administrative Office of the United
States Courts.

3 28 U.S.C. § 1915(c).

4 Second, 28 U.S.C. § 753(f) allows the Court to order the government to pay for transcripts
5 only if “the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the
6 transcript is needed to decide the issue presented by the suit or appeal.” A request for a transcript
7 at government expense should not be granted unless “the appeal presents a substantial issue.”
8 Henderson v. United States, 734 F.2d 483, 484 (9th Cir. 1984).

9 Plaintiff’s notice of appeal is devoid of any grounds for the appeal; therefore, the Court
10 cannot find that the appeal presents a substantial issue. Accordingly, Plaintiff’s motion for the trial
11 transcript at government expense is HEREBY DENIED. Any further relief on this issue must be
12 sought from the United States Court of Appeals for the Ninth Circuit.

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17 IT IS SO ORDERED.

18 **Dated:** July 3, 2012

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE