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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL LOUIS FOSTER,
Plaintiff,
v.
A. ENENMOH,
Defendant.

Case No. 1:08-cv-01849-LJO-SKO (PC)
ORDER DENYING MOTION FOR TRIAL
TRANSCRIPTS AT GOVERNMENT
EXPENSE
(Doc. 169)

Plaintiff Michael Louis Foster, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on December 3, 2008. This action was proceeding against Defendant Enenmoh for violation of the Eighth Amendment of the United States Constitution. Plaintiff's claim arose out of the alleged denial of medical care while he was incarcerated at California Substance Abuse Treatment Facility and State Prison in Corcoran, California.

Following a two-day trial by jury commencing on February 4, 2014, judgment was entered for Defendant and against Plaintiff on February 6, 2014. Plaintiff filed a notice of appeal on February 20, 2014, and on March 21, 2014, 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

1 receives a request to prepare transcripts at the government’s expense. First, 28 U.S.C. § 1915(c)
2 defines the limited circumstances under which the Court can direct payment the government to
3 pay for transcripts for a litigant proceeding in forma pauperis.

4 (c) Upon the filing of an affidavit in accordance with subsections (a) and (b) and
5 the prepayment of any partial filing fee as may be required under subsection (b),
6 the court may direct payment by the United States of the expenses of (1) printing
7 the record on appeal in any civil or criminal case, if such printing is required by the
8 appellate court; (2) preparing a transcript of proceedings before a United States
9 magistrate judge in any civil or criminal case, if such transcript is required by the
10 district court, in the case of proceedings conducted under section 636(b) of this title
11 or under section 3401(b) of title 18, United States Code; and (3) printing the record
12 on appeal if such printing is required by the appellate court, in the case of
13 proceedings conducted pursuant to section 636(c) of this title. Such expenses shall
14 be paid when authorized by the Director of the Administrative Office of the United
15 States Courts.

16 28 U.S.C. § 1915(c).

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

22 The Court does not find that Plaintiff’s appeal presents any substantial issues.
23 Accordingly, Plaintiff’s motion for the trial transcript at government expense is HEREBY
24 DENIED. Any further relief on this issue must be sought from the United States Court of Appeals
25 for the Ninth Circuit.

26 IT IS SO ORDERED.

27 Dated: March 24, 2014

/s/ Lawrence J. O’Neill
UNITED STATES DISTRICT JUDGE