

1 Plaintiff filed Notice of Appeal of the Judgment of dismissal. (ECF No. 35.) On August
2 31, 2012, the Clerk for the U.S. District Court for the Eastern District filed a copy of the
3 Notice of Appeal¹ and certified that the record on appeal is available in the office of the
4 Clerk and will be transmitted to the Court of Appeals upon direction of the Clerk of the
5 Court of Appeals. (ECF No. 37.) On September 17, 2012, Plaintiff filed a Motion for
6 Transcripts at Government Expense (ECF No. 40). That motion is ow before the Court.
7

8 **II. ANALYSIS**

9 Plaintiff requests the District Court Clerk provide him with the transcript
10 designation form so he can provide the Court of Appeals with a copy of all transcripts
11 and relevant records. Plaintiff notes he is indigent and can not purchase a copy of the
12 records.
13

14 A litigant who has been granted *in forma pauperis* status may move to have
15 transcripts produced at government expense. See 28 U.S.C. § 753(f); McKinney v.
16 Anderson, 924 F.2d 1500, 1511-12 (9th Cir. 1991). Two statutes must be considered
17 whenever the District Court receives a request to prepare transcripts at the government's
18 expense.
19

20 First, 28 U.S.C. § 1915(c) defines the limited circumstances under which the
21 Court can direct the government to pay for transcripts for a litigant proceeding *in forma*
22 *pauperis*.

23 (c) Upon the filing of an affidavit in accordance with subsections (a) and (b) and
24 the prepayment of any partial filing fee as may be required under subsection (b),
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26
27 ¹ 9th Cir. Case No. 12-16941.

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

12
13 28 U.S.C. § 1915(c).

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

21 Here, neither the District Court nor the Court of Appeals has required the record
22 on appeal. Based on Plaintiff's notice of appeal, the Court finds that the appeal does not
23 present a substantial question. See U.S. v. Frost, 344 F.Supp.2d 206, 208 (D.Me. 2004)
24 (party's indigent status, without more is insufficient to establish entitlement to transcript
25 at government expense for purposes of appeal where he failed to specify grounds for
26 appeal sufficient to assess need for transcript).
27

1 Plaintiff is notified that the Court of Appeals has access to the District Court's file
2 in this case and will request any necessary documents in the record directly from this
3 Court. As noted above, the District Court Clerk has certified the record on appeal is
4 available.
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6 If Plaintiff desires a copy of the certification of record from the docket or
7 documents contained in the record, he may request same from the District Court Clerk
8 at \$0.50 per page.

9 **III. CONCLUSION AND ORDER**

10 Based on the foregoing, Plaintiff's Motion for Transcripts at government
11 expense (ECF No. 40) is DENIED. Plaintiff may renew his request for a transcript at
12 government expense with the Court of Appeals by filing a motion there if he wishes.
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15 IT IS SO ORDERED.

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17 Dated: September 20, 2012

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE