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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

LARRY WILLIAM CORTINAS,	)	Case No.: 1:13-cv-01229-AWI-SAB (PC)
	)	
Plaintiff,	)	
	)	ORDER GRANTING PLAINTIFF’S REQUEST
v.	)	FOR A COPY OF THE TRANSCRIPT OF THE
	)	EVIDENTIARY HEARING AT STATE
M. PORTILLO, et al.,	)	GOVERNMENT EXPENSE
	)	
Defendants.	)	[ECF No. 97]
	)	
	)	

Plaintiff Larry William Cortinas is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On May 13, 2015, this Court conducted an evidentiary hearing to address the issue of Plaintiff’s exhaustion of the administrative remedies. Subsequent to the hearing, the Court ordered simultaneous briefing by the parties due May 29, 2015.

On May 14, 2015, Defendants requested a copy of the transcript of the evidentiary hearing. (ECF No. 94.)

On May 22, 2015, Plaintiff filed a request for the evidentiary hearing transcripts per the request by defense counsel. (ECF No. 97.)

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)

1 defines the limited circumstances under which the Court can direct the government to pay for  
2 transcripts for a litigant proceeding in forma pauperis.

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

14 28 U.S.C. § 1915(c).

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

20 In this instance, based on the substantial amount of argument and evidence presented at the  
21 evidentiary hearing relating to Defendants’ defense of Plaintiff’s failure to exhaust the administrative  
22 remedies, the Court ordered subsequent briefing by both parties. Defense counsel has requested and  
23 received a copy of the transcript of the evidentiary hearing, and under these circumstances, the Court  
24 finds a substantial issue involved that warrants production of the evidentiary transcripts at government  
25 expense to assist Plaintiff in drafting his brief. 28 U.S.C. § 1915(c)(2). Accordingly, the Court will  
26 direct the court reporter to provide Plaintiff a copy of the transcript of the May 13, 2015, evidentiary  
27 hearing at government expense. In light of this ruling, the Court will extend the deadline to submit  
28 simultaneous briefs to **June 15, 2015**.

Based on the foregoing, it is HEREBY ORDERED that:

1. Plaintiff’s request for a copy of the evidentiary hearing transcript at the expense of the  
United States government is GRANTED;

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2. The court reporter is directed to provide Plaintiff a copy of the transcript of the May 13, 2015, evidentiary hearing at the expense of the United States government; and
3. The deadline to file a brief is extended to **June 15, 2015**.

IT IS SO ORDERED.

Dated: May 28, 2015

  
UNITED STATES MAGISTRATE JUDGE