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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TERRENCE BROWNLEE,

Plaintiff,

No. CIV S-02-214 MCE GGH P

vs.

MURPHY, et al.,

Defendants.

ORDER

_____ /

On April 14, 2010, plaintiff pro se filed a motion for a copy of the trial transcripts. A jury trial was commenced on March 8, 2010, and judgment for defendants was entered in this civil rights action on March 9, 2010. Plaintiff filed a notice of appeal on March 12, 2010.

A litigant who has been granted in forma pauperis status may move to have transcripts produced at government expense. See 28 U.S.C. § 753(f); McKinney v. Anderson, 924 F.2d 1500, 1511-12 (9th Cir.1991)(production of transcript at government expense for in forma pauperis appellant in civil case proper if trial judge certifies “that the appeal is not frivolous and presents a substantial question”). 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 the government to pay for transcripts for a litigant proceeding in forma pauperis.


1 (c) Upon the filing of an affidavit in accordance with subsections (a) and (b) and
2 the prepayment of any partial filing fee as may be required under subsection (b),
3 the court may direct payment by the United States of the expenses of (1) printing
4 the record on appeal in any civil or criminal case, if such printing is required by
5 the appellate court.... Such expenses shall be paid when authorized by the
6 Director of the Administrative Office of the United States Courts.

7 28 U.S.C. § 1915(c).

8 Second, 28 U.S.C. § 753(f) allows the court to order the government to pay for
9 transcripts only if “the trial judge or a circuit judge certifies that the appeal is not frivolous and
10 the transcript is needed to decide the issue presented by the suit or appeal.” 28 U.S.C. § 753(f).
11 A request for a transcript at government expense should not be granted unless the appeal presents
12 a substantial question. Henderson v. United States, 734 F.2d 483, 484 (9th Cir.1984). His
13 generic statement that he needs the trial transcripts to prepare his opening brief on appeal does
14 not provide a sufficient basis for his need for the transcripts. Based on plaintiff’s notice of
15 appeal, wherein plaintiff sweepingly asserts that “every defendant...lied on the stand” and his
16 transcript request, the court finds that the appeal does not present a substantial question and the
17 request for a transcript at government expense is denied. In addition, plaintiff is notified that the
18 appellate court has access to the court's file in this case, and will request any necessary
19 documents that are in the record directly from this court.

20 IT IS HEREBY ORDERED that plaintiff’s March 14, 2010 (docket # 243) request
21 for a copy of the trial transcripts at government expense is denied.

22 Dated: May 5, 2010

23 
24 MORRISON C. ENGLAND, JR.
25 UNITED STATES DISTRICT JUDGE
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