

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

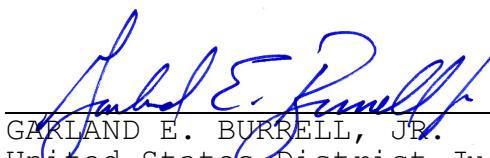
Plaintiff is a state prisoner proceeding pro se against two California correctional officers claimed to have subjected him to excessive force in violation of the Eighth Amendment. A jury verdict returned in favor of defendants on July 24, 2008, and judgment was entered on August 6, 2008. Plaintiff filed a notice of appeal on August 5, 2008. On August 26, 2008, Plaintiff filed a motion for the production of his jury trial transcripts at government expense, so he can use them in his appeal to the Ninth Circuit. Production of transcripts at government expense for an appellate proceeding in forma pauperis in a civil case is proper if a judge certifies that the appeal is not frivolous and presents a substantial question. 28 U.S.C. § 753(f).

1           In one of Plaintiff's appellate issues, he criticizes me  
2 for positioning myself in the courtroom during the jury trial so I  
3 could determine whether anything blocked Plaintiff's view of  
4 evidence. Notwithstanding any bearing this could have had on  
5 Plaintiff's credibility, Plaintiff failed to present evidence  
6 sufficient to justify the judicial certification he seeks.  
7 Therefore, the motion is denied.

8           The Clerk of the Court is directed to serve a copy of  
9 this order on the United States Court of Appeals for the Ninth  
10 Circuit.

11           IT IS SO ORDERED.

12 Dated: February 4, 2009

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15           GARLAND E. BURRELL, JR.  
16           United States District Judge

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