

1 possesses that the person is unable to pay such fees or give security
2 therefor. Such affidavit shall state the nature of the action, defense
or appeal and affiant's belief that the person is entitled to redress.

3 (2) A prisoner seeking to bring a civil action or appeal a judgment
4 in a civil action or proceeding without prepayment of fees or
5 security therefor, in addition to filing the affidavit filed under
6 paragraph (1), shall submit a certified copy of the trust fund account
7 statement (or institutional equivalent) for the prisoner for the 6-
month period immediately preceding the filing of the complaint or
notice of appeal, obtained from the appropriate official of each
prison at which the prisoner is or was confined.

8 28 U.S.C. § 1915(a). Title 28 U.S.C. § 753(f) states, in relevant part, “[f]ees for transcripts
9 furnished in [civil] proceedings to persons permitted to appeal in forma pauperis shall also be
10 paid by the United States if the trial judge or a circuit judge certifies that the appeal is not
11 frivolous (but presents a substantial question).” See also Maloney v. E. I. DuPont de Nemours &
12 Co., 396 F.2d 939, 940 (D.C. Cir. 1967); Henderson v. United States, 734 F.2d 483, 484 (9th Cir.
13 1984).

14 II. Discussion

15 Plaintiff asks the court to order transcripts of the trial at the government’s expense.¹ The
16 transcripts will be used to support an appeal. According to plaintiff he is an indigent state
17 prisoner. Defendants did not respond to plaintiff’s motion.

18 Plaintiff does not raise any issue for appeal, and he does not argue that his appeal presents
19 a substantial issue. Rather, he seeks “all docket entries filed in the instant action of all document
20 entries to properly file the opening brief,”² as well as the transcripts. (ECF No. 280 at 2.)
21 Plaintiff claims his prior attorney mailed a copy of the transcripts “to Sacramento” but claims
22 plaintiff was hospitalized and transferred. (Id.)

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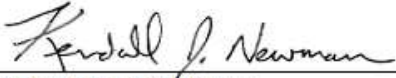
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25 ¹ Plaintiff did not ask the court to direct the United States to pay for printing the record on
26 appeal, and has not alleged that the Ninth Circuit requires such a record to be printed. Thus,
plaintiff’s request is analyzed under § 753(f).

27 ² Review of the Ninth Circuit docket reflects that on February 16, 2017, plaintiff’s motion for
28 appointment of counsel was granted, and on February 23, 2017, briefing was stayed. Rios v.
Brandon, No. 16-17213 (9th Cir.).

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Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for preparation of transcripts at government's expense (ECF No. 280) is denied without prejudice.

Dated: March 22, 2017


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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