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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TROY COOPER,
Plaintiff,
v.
YUEN CHEN, M.D.,
Defendants.

No. 2:10-cv-1057 DAD P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action. Following a jury trial, this court entered judgment for defendant Chen on October 17, 2013. Plaintiff filed a notice of appeal and has since filed several requests with this court seeking a trial transcript at government expense.

If the court has granted a litigant in forma pauperis status, the litigant may request to have transcripts produced at government expense. The court must consider two statutes in ruling on such a request. 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 as follows:

Upon the filing of an affidavit in accordance with subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b), the court may direct payment by the United States of the expenses of (1) printing the record on appeal in any civil or criminal case, if such printing is required by the

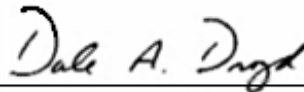
1 appellate court; (2) preparing a transcript of proceedings before a
2 United States magistrate judge in any civil or criminal case, if such
3 transcript is required by the district court, in the case of proceedings
4 conducted under section 636(b) of this title or under section
5 3401(b) of title 18,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

6 28 U.S.C. § 1915(c). Second, 28 U.S.C. § 753(f) allows the court to order the government to pay
7 for transcripts only if “the trial judge or a circuit judge certifies that the suit or appeal is not
8 frivolous.” A request for a transcript at government expense should not be granted unless “the
9 appeal presents a substantial issue.” Henderson v. United States, 734 F.2d 483, 484 (9th
10 Cir.1984).

11 In this case, the Ninth Circuit Court of Appeals has not indicated that the printing of all or
12 part of the record, including transcripts, is required in this case. In addition, plaintiff has not
13 identified the basis of his appeal or explained how the transcripts will assist him on the specific
14 claims to be raised in his appeal. As such, the court cannot find that plaintiff’s appeal presents
15 any “substantial issue.”

16 Accordingly, IT IS HEREBY ORDERED that plaintiff’s motions for the trial transcripts at
17 government expense (Doc. Nos. 140-142) are denied. Plaintiff may renew his request for the trial
18 transcripts at government expense with the Ninth Circuit by filing a motion in that court if he
19 wishes.

20 Dated: February 10, 2014

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22 _____
23 DALE A. DROZD
24 UNITED STATES MAGISTRATE JUDGE

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