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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN SCOTT MCCLINTOCK,
Plaintiff,
v.
T. COOPER, et al.,
Defendants.

No. 2: 18-cv-00560 DAD KJN P

ORDER

Plaintiff is a state prisoner, proceeding in forma pauperis and without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s motion for transcripts. (ECF No. 147.) For the reasons stated herein, plaintiff’s motion for transcripts is denied.

On March 23, 2023, the court granted defendants’ summary judgment motion and judgment was entered. (ECF Nos. 142, 143.) Plaintiff filed an appeal with the Ninth Circuit Court of Appeals. (ECF No. 144.)

In the pending motion, plaintiff requests that he be provided with a free copy of the transcript from the settlement conference conducted by the undersigned in case 2:13-cv-064 TLN DB P.¹ (ECF No. 147.) Plaintiff claims that the instant action “is the direct result for the

¹ On May 10, 2018, the undersigned conducted a settlement conference in case 2:13-cv-064 TLN DB P. Following the settlement conference, the parties entered into a settlement agreement.


1 unsettled 1st Amendment retaliations directed against the plaintiff for pursuing his meritorious
2 claims for jury trial in case 2:13-cv-064 TLN.” (Id. at 1.)

3 Setting aside the relevancy of the pending request, plaintiff is informed that settlement
4 negotiations are not recorded. Plaintiff is informed that only the terms of the settlement are
5 placed on the record. Because it appears that plaintiff seeks a transcript of the settlement
6 negotiations, plaintiff’s motion for transcripts is denied.

7 Moreover, assuming the availability and relevance of the requested transcript, plaintiff is
8 not entitled to a free copy of this transcript because it is not part of the record on appeal. In other
9 words, the requested transcript appears to be new evidence not previously made part of the record
10 in this action. Title 28 U.S.C. § 1915 allows for the payment by the United States of the expenses
11 of "printing the record on appeal in any civil or criminal case, if such printing is required by the
12 appellate court," and of "preparing a transcript of proceedings before a United States magistrate
13 judge in any civil or criminal case, if such transcript is required by the district court." 28 U.S.C. §
14 1915(c). Nothing in the statute authorizes payment of costs associated with discovery. See
15 Tedder v. Odel, 890 F.2d 210, 211-12 (9th Cir. 1989).

16 Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion for transcripts (ECF No.
17 147) is denied.

18 Dated: July 26, 2023

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21 KENDALL J. NEWMAN
22 UNITED STATES MAGISTRATE JUDGE

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