

United States District Court
For the Northern District of California

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

GARY B. MOORE,

No. C-04-1749 MMC

Plaintiff,

**ORDER DENYING PLAINTIFF’S MOTION
FOR TRANSCRIPTS**

v.

OFFICER S. ZEPPA, et al.,

Defendants

Before the Court is plaintiff Gary B. Moore’s “Motion for Pro Per Plaintiff Transcripts of His Trial Prepared and Sent to Him to be Used for Appeal of the Action,” filed April 12, 2010. Having read and considered the motion, the Court rules as follows.

To the extent plaintiff is of the view that he may obtain, by virtue of his in forma pauperis status, a free copy of trial transcripts, plaintiff is incorrect. See Bonner v. Henderson, 517 F.2d 135, 136 (5th Cir. 1975) (holding litigant proceeding in forma pauperis “not entitled to a free copy of his transcript and record to search for possible trial defects merely because he is an indigent”).

Further, although a litigant proceeding in forma pauperis may be entitled to an order providing him free transcripts if a notice of appeal is filed, such order is proper only if a court certifies that the appeal is “not frivolous.” See 28 U.S.C. § 753(f) (providing “[f]ees for transcripts furnished in [civil] proceedings to persons permitted to appeal in forma pauperis

1 shall [] be paid by the United States if the trial court or circuit judge certifies that the appeal
2 is not frivolous (but presents a substantial question)"). Here, plaintiff has not filed a notice
3 of appeal, let alone identified therein any "substantial question" that would be presented by
4 such an appeal. See id.

5 Accordingly, plaintiff's motion is hereby DENIED.

6 **IT IS SO ORDERED.**

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8 Dated: April 15, 2010

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10 MAXINE M. CHESNEY
11 United States District Judge