

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

NATHANIEL WILLINGHAM,

No. C 06-3744 MMC

Plaintiff,

**ORDER GRANTING PLAINTIFF’S
MOTION FOR TRANSCRIPT AT
GOVERNMENT EXPENSE**

v.

CITY OF SAN LEANDRO, et al.,

Defendants

_____ /

Before the Court is plaintiff’s “Motion for Transcript at Government Expense,” filed December 1, 2008, by which plaintiff seeks, at government expense, a transcript of the proceedings conducted herein beginning May 27, 2008 and ending June 4, 2008.¹ Defendants have not filed a response to the motion. Having read and considered plaintiff’s motion, the Court rules as follows.

“Fees for transcripts furnished in [civil] proceedings to persons permitted to appeal in forma pauperis shall [] be paid by the United States if the trial court or circuit judge certifies that the appeal is not frivolous.” 28 U.S.C. § 753(f).² Here, the instant action included non-frivolous claims, including claims for which sufficient evidence existed to present the matter

¹In plaintiff’s motion, plaintiff states he seeks “a transcript covering 27 May 2008 through 6 June 2008.” The last day of reported proceedings, however, was June 4, 2008. (See Docket No. 172.)

²By order filed November 5, 2008, plaintiff’s motion for leave to proceed in forma pauperis on appeal was granted.

1 to a trier of fact, and there is no indication that plaintiff's appeal from the judgment is
2 frivolous or would fail to present a substantial question.

3 Accordingly, the motion is hereby GRANTED.

4 Plaintiff remains obligated, however, to "file a transcript order in the district court,
5 using the district court's transcript designation form," and to "simultaneously provide a copy
6 of the designation form to the court reporter and the Court of Appeals." See Ninth Circuit
7 Court of Appeals Circuit Rule 10-3(d).³ Such transcript order form can be found on the
8 District Court's website, www.cand.uscourts.gov, in the "Forms" section.

9 **IT IS SO ORDERED.**

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11 Dated: December 17, 2008

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MAXINE M. CHESNEY
United States District Judge

³Plaintiff attached to the instant motion a "Transcript Purchase Order" using a form apparently used in the Court of Appeals for the Federal Circuit.