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

FRANK AND DEBORAH MCDOWELL,

No. C 11-02569 CRB

Plaintiff-Appellants,

**ORDER DENYING (1) MOTION FOR
APPOINTMENT OF COUNSEL; (2)
REQUEST FOR TRANSCRIPT AT
GOVERNMENT EXPENSE**

v.

THE STATE OF CALIFORNIA,

Defendant-Appellee.

On January 24, 2012, the Court granted Plaintiff-Appellants' Application to Proceed *In Forma Pauperis*, in conjunction with their Notice of Appeal to the United States Court of Appeal for the Ninth Circuit. Plaintiff-Appellants have now filed (1) a motion for the appointment of counsel to represent them on appeal, and (2) a request that transcripts be provided to them at government expense.

The motion for appointment of counsel is denied, as there is no constitutional right to counsel in a civil case. See United States v. 30.64 Acres of Land, 795 F.2d 796, 801 (9th Cir. 1986).

The request for transcripts is also denied. To the extent that Plaintiff-Appellants believe that their *in forma pauperis* status entitles them to free copies of transcripts, that is incorrect. See Bonner v. Henderson, 517 F.2d 135, 136 (5th Cir. 1975). Although a litigant proceeding *in forma pauperis* might be entitled to an order providing him free transcripts if a

1 notice of appeal is filed, such order is proper only if a court certifies that the appeal is “not
2 frivolous” and that the transcript is needed to decide the issue presented by the appeal.
3 See 28 U.S.C. § 753(f). Plaintiff-Appellants have filed a Notice of Appeal, but have made no
4 showing that their appeal is nonfrivolous or that the transcripts are needed to decide the
5 issues presented.

6 **IT IS SO ORDERED.**

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8 Dated: February 16, 2012



9 CHARLES R. BREYER
10 UNITED STATES DISTRICT JUDGE
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