

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

ANN MARILYN LEMBERG,  
Plaintiff,  
  
v.  
  
SAN FRANCISCO OPERA  
ASSOCIATION,  
Defendant.

Case No. [17-cv-06641-MMC](#)

**ORDER DENYING PLAINTIFF'S  
MOTION TO ORDER PAYMENT OF  
TRANSCRIPTS**

United States District Court  
Northern District of California

Before the Court is plaintiff's "Motion to the Court to [O]rder [P]ayment of the [T]ranscripts of the [H]earings for the Record on [A]ppeal," filed February 26, 2021, by which plaintiff seeks, at government expense, transcripts of "hearings" held in the above-titled action. (See Doc. No. 149.) Defendant has not filed a response. Having read and considered plaintiff's motion, the Court rules as follows.

Pursuant to 28 U.S.C. § 753(f), "[f]ees for transcripts furnished in [civil] proceedings to persons permitted to appeal in forma pauperis shall . . . be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question)." See 28 U.S.C. § 753(f).

Although, in the instant case, the Court, by order filed October 2, 2020, declined to revoke plaintiff's in forma pauperis status for the purpose of appeal, plaintiff has failed to provide a basis for why the transcripts she seeks are necessary for, or even relevant to, her appeal, by which she challenges the Court's "final orders and judgements . . . on August 24, 2020 and September 4, 2020 respectively." (See Doc. No. 144.) In those orders, the Court granted defendant's Motion to Enforce Settlement (see Doc. No. 122), denied plaintiff's Motion for Leave to File Amended Complaint (see Doc. No. 123), and


1 granted in part/denied in part defendant's Request for Attorney's Fees (see Doc. Nos.  
2 122, 138), all of which matters were resolved on the parties' written submissions, without  
3 a hearing. Indeed, the only reported proceedings in the above-titled action were two  
4 case management conferences, held on February 7, 2020, and May 29, 2020,  
5 respectively, which took place well before the Court issued the above-referenced orders  
6 and did not address any of the issues resolved therein.

7 Under such circumstances, plaintiff fails to show she is entitled to obtain  
8 transcripts at government expense. See Volis v. HACLA, No. LA CV 13-01397 MMM  
9 (SPx), 2014 WL 12696752, at \*2 (C.D. Cal. 2014) (denying plaintiff's motion for  
10 production of transcripts at government expense under 28 U.S.C. § 753(f) where plaintiff  
11 "failed to demonstrate that transcripts are necessary to resolve the[] issues [on appeal]");  
12 Westbrook v. Boy Scouts of Am., No. 10 C 4161, 2013 WL 2936488, at \*4 (N.D. Ill. 2013)  
13 (same).

14 Accordingly, the motion is hereby DENIED.

15 **IT IS SO ORDERED.**

16  
17 Dated: March 5, 2021

18   
19 MAXINE M. CHESNEY  
20 United States District Judge  
21  
22  
23  
24  
25  
26  
27  
28