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6 **UNITED STATES DISTRICT COURT**  
7 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

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9 KELVIN X. SINGLETON,  
10 Plaintiff,  
11 v.  
12 G. HERNANDEZ,  
13 Defendant.

Case No. 16-cv-02462 BAS-NLS

**ORDER GRANTING PLAINTIFF'S  
MOTION FOR TRANSCRIPTS**

**[ECF No. 226]**

14 Plaintiff Kelvin X. Singleton, a California state prisoner, sued Lieutenant Hernandez  
15 for violating his civil rights pursuant to 42 U.S.C. § 1983. A jury trial was held, and on  
16 February 5, 2020, the Court granted Defendant's Rule 50 motion and dismissed the action.  
17 (ECF Nos. 216, 219.) On February 18, 2020, Plaintiff filed a Notice of Appeal.<sup>1</sup> (ECF  
18 No. 222.) Thereafter, Plaintiff filed a Motion for Transcripts, seeking transcripts from the  
19 hearing on the motions in limine, the final pretrial conference, and the trial itself. (*See*  
20 *Mot.*, ECF No. 226)

21 Litigants proceeding in forma pauperis status may move to have transcripts produced  
22 at government expense. *See* 28 U.S.C. § 753(f); *McKinney v. Anderson*, 924 F.2d 1500,  
23 1511-12 (9th Cir.1991), *overruled on other grounds by Helling v. McKinney*, 502 U.S. 903  
24 (1991) (reviewing for an abuse of discretion and noting that “[p]roduction of the transcript  
25 at government expense for an appellant in forma pauperis in a civil case is proper under 28  
26 U.S.C. § 753 if a trial judge certifies that the appeal is not frivolous and presents a

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28 <sup>1</sup> Plaintiff was represented by counsel in his trial. However, Plaintiff reverted to *pro se* status upon filing his Notice of Appeal. (*See* ECF No. 222.)

1 substantial question”). To rule on such a motion, a district court must consider 28 U.S.C.  
2 1915(c) in addition to 28 U.S.C. § 753(f):

3 . . . the court may direct payment by the United States of the expenses of (1)  
4 printing the record on appeal in any civil or criminal case, if such printing is  
5 required by the appellate court; (2) preparing a transcript of proceedings  
6 before a United States magistrate judge in any civil or criminal case, if such  
7 transcript is required by the district court, in the case of proceedings conducted  
8 under section 636(b) of this title or under section 3401(b) of title 18, United  
States Code; and (3) printing the record on appeal if such printing is required  
by the appellate court, in the case of proceedings conducted pursuant to  
section 636(c) of this title. Such expenses shall be paid when authorized by  
the Director of the Administrative Office of the United States Courts.

9 28 U.S.C. § 1915(c). If “the trial judge or a circuit judge certifies that the suit or appeal is  
10 not frivolous and that the transcript is needed to decide the issue presented by the suit or  
11 appeal[,]” the court may order the government to pay for the required transcripts. 28 U.S.C.  
12 § 753(f). However, this request should not be granted unless the appeal presents a  
13 “substantial question.” *Henderson v. United States*, 734 F.2d 483, 484 (9th Cir. 1984).  
14 “Doubts about substantiality of the questions on appeal and the need for a transcript to  
15 explore them should be resolved in favor of the petitioner.” *Lee v. Habib*, 424 F.2d 891,  
16 905 (D.C. Cir. 1970).

17 Plaintiff submitted a declaration in support of his Motion explaining the relevance  
18 of the transcripts to the substantial questions he seeks to raise on appeal. (See ECF No.  
19 226.) Based on the Court’s review of the declaration and its familiarity with this case, the  
20 Court finds that the appeal is not frivolous and the transcripts requested are necessary to  
21 decide the issues presented. As such, the Court **GRANTS** Plaintiff’s Motion and  
22 authorizes the production of the reporter’s transcripts at government expense for the Final  
23 Pretrial Conference and the hearing on the Motions in Limine, jointly held on December  
24 18, 2019, and for the jury trial on February 4, 2020 and February 5, 2020.

25 **IT IS SO ORDERED.**

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27 **DATED: March 12, 2020**

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**Hon. Cynthia Bashant**  
**United States District Judge**