

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TRAVIS WELCH,

Plaintiff,

Case # 16-CV-6520-FPG

v.

DECISION AND ORDER

CITY OF ROCHESTER, et al.,

Defendants.

On February 16, 2018, the Clerk of Court entered judgment for Defendants following a three-day trial and subsequent verdict in Defendants' favor. ECF Nos. 32, 34. Plaintiff Travis Welch then timely appealed the judgment on March 7, 2018. ECF No. 35.

Nearly seven months later, on October 5, 2018, Welch moved for a free copy of the trial transcript. ECF No. 36. For the following reasons, Welch's motion is denied.

DISCUSSION

28 U.S.C. § 753(f) provides that "fees for transcripts furnished . . . 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)."

A plaintiff must thus satisfy two requirements to secure a free transcript: he must (1) be permitted to appeal *in forma pauperis* and (2) show that his appeal presents a substantial question. 28 U.S.C. § 753(f). To satisfy the first requirement, a plaintiff must move the Court to proceed *in forma pauperis* and provide an affidavit showing his inability to pay "fees or give security therefor." 28 U.S.C. § 1915; *see also Monti v. McKeon*, 600 F. Supp. 112, 113 (D. Conn. 1984). For the second, he must show that, when judged on an objective basis, his appeal (1) raises a

question that is “reasonably debatable” and (2) that the transcript is necessary to the presentation of the appeal. *Barnes v. Alves*, 102 F. Supp. 3d 252, 256 (W.D.N.Y. 2015) (Wolford, J.).

Here, Welch’s motion fails because he has not satisfied either requirement. Welch has not demonstrated that he is permitted to appeal *in forma pauperis*; he paid the filing fee to initiate his lawsuit, ECF No. 1, and has neither moved to proceed *in forma pauperis* nor submitted an affidavit demonstrating he is unable to pay the required fee. Moreover, his motion does not explain what questions he plans to raise on appeal. Instead, he requests only that the Court waive all fees required to obtain the transcript. ECF No. 36. Consequently, his motion is denied.

CONCLUSION

For the foregoing reasons, Welch’s motion for a free copy of the trial transcript, ECF No. 36, is DENIED.

IT IS SO ORDERED.

Dated: October 11, 2018
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court