

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

<b>DAVID L. BROWN,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 09-CV-0466-CVE-TLW</b>
	)	
<b>J.D. EPPLER, RAY WILLARD, JANE DOE,</b>	)	
<b>JANET DOE, and METROPOLITAN</b>	)	
<b>TULSA TRANSIT AUTHORITY,</b>	)	
	)	
<b>Defendants.</b>	)	

**OPINION AND ORDER**

Now before the Court is Plaintiff’s Application to Obtain Copy of Transcript of Court Hearing Without Payment of Costs (Dkt. # 33). The Court previously permitted plaintiff to proceed in forma pauperis in this action (Dkt. # 3). The Court also issued an Order stating that plaintiff may proceed in forma pauperis on appeal without further authorization by the Court (Dkt. # 32). Plaintiff appeals the denial of his motion for a preliminary injunction (Dkt. # 25).

The court reporter has prepared a transcript of the hearing on plaintiff’s motion for a preliminary injunction (Dkt. # 30).<sup>1</sup> Plaintiff may view this document free of charge at the computer terminal in the Court Clerk’s office. Plaintiff requests “an Order allowing him to have a copy of said transcript . . . without payment of costs . . . .” Dkt. # 33, at 2. “Fees for transcripts furnished in [civil proceedings not brought under 28 U.S.C. § 2255] to persons permitted to appeal in forma

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<sup>1</sup> Preparation of the transcript at the United States’ expense is, therefore, not necessary for the transcript’s inclusion in the record on appeal.

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).” 28 U.S.C. § 753(f).

At this time the Court cannot certify that plaintiff’s appeal “is not frivolous (but presents a substantial question).” Plaintiff states that the denial of his motion for a preliminary injunction was an “abuse of discretion.” Dkt. # 33, at 1. Based on this description, the Court cannot certify that plaintiff’s appeal presents a substantial question. Further, the Court denied plaintiff’s motion for a preliminary injunction because he failed to introduce evidence that any defendant discriminated against him. See Dkt. # 25, at 10. An appeal from the denial of a meritless request for a preliminary injunction alone does not present a substantial question. Cf. Patel v. Wooten, 264 Fed. App’x 755, 758 (10th Cir. 2008) (unpublished) (determining that claims clearly without merit did not present substantial questions under § 753(f)).<sup>2</sup>

**IT IS THEREFORE ORDERED** that Plaintiff’s Application to Obtain Copy of Transcript of Court’s Hearing Without Payment of Costs (Dkt. # 33) is **denied**. Plaintiff may view the transcript free of charge at the computer terminal located in the Court Clerk’s office.

**DATED** this 2nd day of December, 2009.

  
CLAIRE V. EAGAN, CHIEF JUDGE  
UNITED STATES DISTRICT COURT

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<sup>2</sup> Unpublished decisions are not precedential, but may be cited for their persuasive value. See Fed. R. App. 32.1; 10th Cir. R. 32.1.