

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Adrian T. Eaglin,)	C/A No. 0:14-4003-PJG
)	
Plaintiff,)	
)	
v.)	ORDER
)	
McCall, <i>Sergeant</i> ,)	
)	
Defendant.)	
_____)	

From August 1-2, 2016, a jury trial was conducted in this civil rights action, resulting in a jury verdict in favor of the defendant. Currently before the court is Plaintiff Adrian T. Eaglin’s “Motion for Pauper’s Transcript.” (ECF No. 211.) Specifically, Eaglin requests preparation of a transcript of the pretrial conference, jury selection, plaintiff’s case-in-chief, and defendant’s case-in-chief at government expense for inclusion in the appellate record, citing 28 U.S.C. § 1915(c).

Section 1915 permits an *in forma pauperis* litigant to proceed without the prepayment of fees.

See 28 U.S.C. § 1915. Subsection (c) specifically provides that,

the court may direct payment by the United States of the expenses of (1) printing the record on appeal in any civil or criminal case, if such printing is required by the appellate court; (2) preparing a transcript of proceedings before a United States magistrate judge in any civil or criminal case, if such transcript is required by the district court, in the case of proceedings conducted 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.

28 U.S.C. § 1915(c). Preparation of a transcript is permitted under this subsection for proceedings before a magistrate judge under 28 U.S.C. § 636(b) when required by the *district court*. However, Eaglin’s jury trial was conducted under § 636(c). Thus, § 1915(c) would allow the court to consider

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authorizing the government to pay the expense of *printing* the record on appeal; however, unlike § 1915(c)(2), subsection (c)(3) does not specifically address payment for preparation of a transcript for appeal. Moreover, even if § 1915(c)(3) applied to preparation of the transcript for appeal, the court finds that Eaglin has failed to demonstrate that the entire transcript is required by the appellate court at this time.¹ The court also observes that the United States Court of Appeals for the Fourth Circuit has access to the district court's file in this case.

Finally, the court observes that for appeal purposes, 28 U.S.C. § 753(f) provides that fees for transcripts furnished to civil *in forma pauperis* litigants shall be paid by the United States “if the trial judge or circuit judge certifies that the appeal is not frivolous (but presents a substantial question).” 28 U.S.C. § 753(f). However, Eaglin has not addressed this standard.

Accordingly, based on the foregoing, it is hereby

ORDERED that Eaglin's motion is DENIED without prejudice at this time. The court notes that Eaglin may renew his request for the transcript at government expense with the Court of Appeals.

IT IS SO ORDERED.

October 17, 2016
Columbia, South Carolina



Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

¹ The court notes that Eaglin alleges that his issues on appeal concern the sealing of the juror questionnaires and the number of jurors seated in this civil trial.