

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

MICHAEL TED LAMB,	§	
Plaintiff,	§	
	§	
v.	§	C.A. NO. C-07-449
	§	
OSCAR MENDOZA, ET AL.,	§	
Defendants.	§	

**MEMORANDUM OPINION AND ORDER DENYING WITHOUT PREJUDICE  
MOTIONS FOR PREPARATION OF THE TRIAL TRANSCRIPT AT PUBLIC  
EXPENSE AND FOR A COPY OF THE TRIAL TRANSCRIPT**

Plaintiff, a prisoner proceeding *pro so* and *in forma pauperis* filed this lawsuit pursuant to 42 U.S.C. § 1983, alleging various constitutional violations. A jury trial was held, resulting in a verdict in favor of defendants. Final judgment that plaintiff take nothing was entered June 4, 2010 (D.E. 101). Plaintiff was granted permission to reopen the time to file his notice of appeal pursuant to FED. R. APP. P. 4(a)(6), and he timely did so (D.E. 132, 133). Plaintiff is proceeding *pro se* and has been granted leave to appeal *in forma pauperis* (D.E. 140). Pending are plaintiff's motions to have the trial transcribed at public expense and for a copy of the trial transcripts (D.E. 134, 136).

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). 28 U.S.C. § 753(f). Payment by the United States for printing of the record on appeal and transcripts may also be ordered if the record or transcript is **required** by the appellate court. 28 U.S.C. § 1915(c); Harvey

v. Andrist, 754 F.2d 569, 571 (5th Cir.), cert. denied, 471 U.S. 1126, 105 S.Ct. 2659 (1985). In this case plaintiff has not set forth the issues he plans to raise in his appeal; therefore a decision cannot be made as to whether his appeal is frivolous, or whether preparation of the trial transcripts is necessary. The Fifth Circuit Court of Appeals has not indicated that it required a transcript of any of the proceedings in this case.

Accordingly, plaintiff's motions (D.E. 134, 136) are denied without prejudice.

ORDERED this 6<sup>th</sup> day of January, 2011.

A handwritten signature in cursive script, reading "B. Janice Ellington", written over a horizontal line.

B. JANICE ELLINGTON  
UNITED STATES MAGISTRATE JUDGE