

United States District Court
Southern District of Texas

ENTERED

January 30, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ROBERT DANIEL KEYS,

Plaintiff,

VS.

CANDACE TORRES, *et al*,

Defendants.

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CIVIL ACTION NO. 2:12-CV-350

**OPINION AND ORDER DENYING AS MOOT MOTION TO TRANSFER
RECORD AND DENYING WITHOUT PREJUDICE MOTION FOR
TRANSCRIPT**

Final judgment in favor of Defendants was entered in this case on October 18, 2016 (D.E. 169). Plaintiff timely filed his notice of appeal on November 11, 2016 (D.E. 170). Plaintiff was granted leave to proceed *in forma pauperis* on appeal December 20, 2016 (D.E. 175). Pending is Plaintiff's motion that the record be forwarded to the Fifth Circuit at court expense as well as a request that a transcript of all hearings be provided to the Fifth Circuit.

First of all, the electronic Record on Appeal was already forwarded to the Fifth Circuit on January 3, 2017. Plaintiff's motion in that regard is denied as moot.

Second, as to any transcripts, it appears that there was only one hearing in this case, an evidentiary hearing held on January 19, 2013. Payment by the United States for printing of the record on appeal and transcripts may be ordered if the record or transcript is required by the appellate court. 28 U.S.C. § 1915(c) (emphasis added); *Harvey v. Andrist*, 754 F.2d 569, 571 (5th Cir.), *cert. denied*, 471 U.S. 1126 (1985). The result of

the one evidentiary hearing was that service of process was ordered on all named defendants. All other matters were resolved through pleadings that are part of the official record already before the Circuit Court. Plaintiff has not listed the issues he intends to raise on appeal, nor has he made a showing that a copy of the transcript of the evidentiary hearing is necessary to resolve any issues raised on appeal. Plaintiff's motion for a transcript is denied without prejudice.

ORDERED this 30th day of January, 2017.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE