

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DENNIS W. GONZALEZ,

Plaintiff,

v.

JON E. LITSCHER, GERALD BERGE
and TODD T. OVERBO,

Defendants.

ORDER

01-C-521-C

On November 5, 2002, I denied plaintiff's motion for a trial transcript at government expense without prejudice to his renewing the motion after he filed a notice of appeal. Subsequently, plaintiff filed a notice of appeal which I declined to certify as not taken in good faith. Now plaintiff has paid an initial partial payment of the \$105 filing fee as required under 28 U.S.C. § 1915 and renewed his request for a transcript at government expense.

I conclude that it will be extremely difficult for the court of appeals to assess adequately plaintiff's arguments on appeal without access to a trial transcript. Therefore, plaintiff's motion for preparation of the trial transcript at government expense pursuant to 28 U.S.C. §753(f) will be granted. Plaintiff should be aware that opening and closing

statements, and the jury selection process are not included as a part of the trial transcript unless the appellant makes a showing that these aspects of the trial are subject to a legally meritorious attack on appeal. Plaintiff has not made such a showing in this case. Also, the trial transcript will not include jury instructions, since a printed copy of the instructions is in the court's record being sent to the court of appeals.

ORDER

IT IS ORDERED that a transcript of the proceedings in the trial of this case be prepared and furnished to the plaintiff, with the fees therefor to be paid by the United States, pursuant to 28 U.S.C. §753(f).

Entered this 26th day of December, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge