

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**MAURICE HARRIS,**

**Defendant.**

**CRIMINAL ACTION**

**No. 06-20131-01-KHV**

**ORDER**

This matter is before the Court on defendant's Motion To Proceed In Forma Pauperis (Doc. #95) filed February 5, 2010 and defendant's Motion For The Request Of Trial Transcripts (Doc. #96) filed February 5, 2010.

Defendant asks to proceed *in forma pauperis*, but does not state the nature of any such proceeding. Defendant apparently seeks *in forma pauperis* status for the filing of a motion to vacate his sentence under 28 U.S.C. § 2255. The Court overrules defendant's request as moot because no filing fee is required for a Section 2255 motion.<sup>1</sup> See United States v. Garcia, 164 Fed. Appx. 785, 786 (10th Cir. 2006).

Defendant also seeks copies of "all information" pertaining to his case including transcripts, police reports and field reports. Defendant has not shown that absent the information, he cannot prepare a Section 2255 motion. Absent a showing of a particularized need, the Court generally does not provide copies of transcripts or other information to indigent prisoners before a Section 2255 motion is filed. See Rule 7 of the Rules Governing Section 2255 Proceedings (if motion not

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<sup>1</sup> The Court recognizes that defendant financially qualifies for *in forma pauperis* status and may be entitled to copies of transcripts and other information after he files a Section 2255 motion. See, e.g., 28 U.S.C. §§ 753, 2250.

summarily dismissed, court may order expansion of record to include additional materials relevant to motion); 28 U.S.C. § 753 (fees for transcripts paid by United States if judge certifies that suit or appeal is not frivolous and that transcript is needed to decide issue presented); 28 U.S.C. § 2250 (United States shall furnish without cost to indigent prisoner such documents as judge may require); Brown v. N.M. Dist. Court Clerks, 141 F.3d 1184, 1998 WL 123064, at \*3 n.1 (10th Cir. Mar. 19, 1998) (to obtain free copy of transcript, habeas petitioner must demonstrate claim not frivolous and materials needed to decide issue presented by suit); United States v. Sistrunk, 992 F.2d 258, 260 (10th Cir. 1993) (under 28 U.S.C. § 753(f), indigent defendant entitled to free copy of transcript on showing of particularized need); Ruark v. Gunter, 958 F.2d 318, 319 (10th Cir. 1992) (prisoner does not have right to free transcript simply to search for error in record); see also United States v. Horvath, 157 F.3d 131, 132 (2d Cir. 1998) (motion for free transcript under Section 753 not ripe until Section 2255 motion has been filed).

**IT IS THEREFORE ORDERED** that defendant's Motion To Proceed In Forma Pauperis (Doc. #95) filed February 5, 2010 be and hereby is **OVERRULED**.

**IT IS FURTHER ORDERED** that defendant's Motion For The Request Of Trial Transcripts (Doc. #96) filed February 5, 2010 be and hereby is **OVERRULED**.

Dated this 17th day of February, 2010, at Kansas City, Kansas.

s/ Kathryn H. Vratil  
KATHRYN H. VRATIL  
United States District Judge