

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

STEPHEN ROSSI	:	
	:	
	:	Case No. 3:03CV1247 (MRK)
Plaintiff,	:	
	:	
v.	:	
	:	
WEST HAVEN BOARD OF EDUCATION :	:	
GEORGE PALERMO, and RONALD :	:	
STANCIL,	:	
Defendants.	:	

RULING AND ORDER

Plaintiff Stephen Rossi, formerly a student at West Haven High School, sued the West Haven Board of Education ("Board"), its Superintendent George Palermo, and Principal Ronald Stancil, for violating his right to equal protection under the Fourteenth Amendment as enforced through 42 U.S.C. § 1983. In particular, Mr. Rossi alleged that Defendants violated his equal protection rights under the so-called "class of one" theory as articulated in *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000). This Court granted Defendants' Motion for Summary Judgment [doc. #17] on the ground that no reasonable jury could find that there was a lack of rational basis for the difference in treatment that Mr. Rossi received. *See* Mem. of Decision [doc. #32] at 5. Mr. Rossi, now proceeding *pro se*, seeks to appeal this Court's summary judgment ruling. *See* Notice of Appeal [doc. #38].

Presently pending before the Court are Plaintiff Stephen Rossi's Motion for Leave to Proceed In Forma Pauperis [doc. #35] and Motion to Waive Transcript Fees [doc. #36]. Having reviewed Mr. Rossi's financial affidavit, the Court is satisfied, pursuant to 28 U.S.C. § 1915, that

Mr. Rossi is unable to pay the costs of his appeal. Therefore the Court GRANTS Mr. Rossi's Motion for Leave to Proceed In Forma Pauperis [doc. #35] on appeal.

Mr. Rossi also requests that he receive a free transcript of the oral argument on Defendants' summary judgment motion that took place on February 4, 2005, apparently for purposes of his appeal. *See* Minute Entry [doc. #31]. Mr. Rossi's request is governed by 28 U.S.C. § 753(f), which provides in pertinent part as follow:

Fees for transcripts furnished . . . to persons permitted to appeal in forma pauperis shall . . . be paid for by the United States if the trial judge . . . certifies that the appeal is not frivolous (but presents a substantial question).

"The standard for determining if an appeal presents a substantial question is whether, when judged on an objective basis, the appeal (1) raises a question that is 'reasonably debatable' and (2) whether the transcript is necessary to the presentation of the appeal." *O'Neal v. County of Nassau*, 992 F. Supp. 524, 536 (E.D.N.Y. 1997).

Mr. Rossi's Motion to Waive Transcript Fees [doc. #36] fails to specify any grounds for his appeal or why the transcript of argument is necessary for the appeal. Therefore, the Court is unable to determine whether Mr. Rossi has satisfied the requirements of § 753(f). Accordingly, Mr. Rossi's Motion to Waive Transcript Fees [doc. #36] is DENIED WITHOUT PREJUDICE TO RENEWAL. Mr. Rossi may renew his request by submitting, along with his renewed motion, a statement detailing the "substantial question" presented by his appeal, and why the transcript of oral argument is necessary to presentation of the appeal. *See, e.g., Belcher v. Bridgeport Police*, 218 F.3d 196, 196 (2d Cir. 2000). Mr. Rossi need not attach an additional financial affidavit to any renewed motion.

In Conclusion, the Court GRANTS Mr. Rossi's Motion to Proceed In Forma Pauperis

[doc. #35] and DENIES WITHOUT PREJUDICE Mr. Rossi's Motion to Waive Transcript Fees
[doc. #36].

IT IS SO ORDERED.

/s/ Mark R. Kravitz
United States District Court

Dated at New Haven, Connecticut on April 8, 2005.