


FILED

OCT 06 2014

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY 
DEPUTY CLERKUNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BARRY S. JAMESON,

Plaintiff,

v.

SCOTT P. RAWERS, et al.,

Defendants.

CASE NO. 1:03-cv-5593-LJO-MJS (PC)

**ORDER GRANTING IN PART AND
DENYING IN PART REQUEST FOR
RETURN OF DOCKETING FEES****(ECF NO. 123)**

Plaintiff, a state prisoner proceeding pro se, initiated this civil rights action pursuant to 42 U.S.C. § 1983 on May 12, 2003. (ECF No. 1.)

On August 2, 2007, the Court denied Plaintiff leave to proceed in forma pauperis and directed him to submit the applicable filing fee on the ground that he had suffered three "strikes" within the meaning of 28 U.S.C. § 1915(g). (ECF No. 39.) Plaintiff appealed, No. 07-17015. (ECF No. 43.) On February 15, 2008, the United States Court of Appeals for the Ninth Circuit granted Plaintiff leave to proceed in forma pauperis on appeal. (ECF No. 46.) On March 12, 2008, the Ninth Circuit assessed the appellate filing fee, in incremental amounts, against Plaintiff's prisoner account pursuant to 28 U.S.C. § 1915(b)(1) and (2). (ECF No. 47.)

1 On December 14, 2009, the Ninth Circuit reversed this Court's denial of leave to
2 proceed in forma pauperis on the ground that one of the cases relied on did not count as
3 a "strike" under 28 U.S.C. § 1915(g). (ECF No. 53.) Thereafter, the case proceeded to
4 summary judgment in favor of Defendants, (ECF No. 116), and the case was closed.¹

5 On May 27, 2014, the Ninth Circuit granted Plaintiff's request for a refund of his
6 filing and docketing fees for his appeal in No. 07-17015. (ECF No. 122.) The Ninth
7 Circuit vacated its order authorizing the collection of filing and docketing fees from
8 Plaintiff's prisoner account (ECF No. 47), and directed that any funds already collected
9 be refunded to Plaintiff. (ECF No. 122.)

10 On June 9, 2014, Plaintiff filed a request for a return of the filing and docketing
11 fees, and asked that the refund be sent by check or money order to his wife in
12 Sacramento. (ECF No. 123.)

13 Plaintiff's request (ECF No. 123) is GRANTED IN PART AND DENIED IN PART
14 as follows:

- 15 1. Pursuant to the Ninth Circuit's May 27, 2014 order (ECF No. 122), the
16 Financial Unit of the U.S. District Court, Eastern District of California,
17 Fresno Division is HEREBY ORDERED to refund any filing fees paid by
18 Plaintiff in relation to his appeal in No. 07-17015;
- 19 2. The refund shall be sent to Plaintiff at his address on record with the Court;
20 and
- 21 3. Plaintiff's request that the refund be sent to his wife is HEREBY DENIED.

22 IT IS SO ORDERED.

23
24 Dated: 9/30/2014
September 30, 2014

25 
26 /s/ Michael J. Seng
27 UNITED STATES MAGISTRATE JUDGE

28 ¹ Plaintiff appealed the ruling on Defendants' motion for summary judgment. (ECF No. 118.) The Ninth Circuit affirmed. (ECF No. 124.)