

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED 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 DENYING MOTION FOR  
RECONSIDERATION**  
**(ECF NO. 129)**

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.)

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

---

<sup>1</sup> Plaintiff appealed the ruling on Defendants’ motion for summary judgment. (ECF No. 118.) The Ninth Circuit affirmed. (ECF No. 124.)

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

6 Plaintiff filed in this Court a request for a return of the filing and docketing fees,  
7 and asked that the refund be sent by check or money order to his wife in Sacramento.  
8 (ECF No. 123.) The Court granted Plaintiff's request for a refund of the filing and  
9 docketing fees, but denied his request to have the refund sent to his wife in Sacramento.  
10 (ECF No. 127.) The Court ordered that any refund be sent to Plaintiff at his address on  
11 record with the Court.

12 Plaintiff subsequently filed a change of address listing his wife's Sacramento  
13 address (ECF No. 128), as well as a motion for reconsideration, asking that the refund  
14 be sent to the Sacramento address because he soon will be paroled.

15 The Financial Unit of the United States District Court, Eastern District of  
16 California, Fresno Division has advised the Court that all filing and docketing fees paid in  
17 relation to Appeal No. 07-17015 were refunded on June 10, 2014.

18 Accordingly, the Court HEREBY DENIES Plaintiff's motion for reconsideration  
19 (ECF No. 129) as moot.

20  
21 IT IS SO ORDERED.

22 Dated: October 30, 2014

/s/ Michael J. Seng  
23 UNITED STATES MAGISTRATE JUDGE  
24  
25  
26  
27  
28