

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA
3

4 DONALD GLASS,

5 Plaintiff,

6 v.

7 A. K. SCRIBNER, *et al.*,

8 Defendants.
9

1:04-cv-05953-LJO-EPG (PC)

ORDER DENYING AS MOOT PLAINTIFF'S
MOTION FOR THE COURT TO REFUND
AND RETURN FILING FEE CHARGES
DEDUCTED FROM PRISON TRUST
ACCOUNT AND MAILED TO THE COURT

[ECF No. 263]

10 Plaintiff Donald Glass ("Plaintiff") is a state prisoner proceeding *pro se* in this civil
11 action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on July 14, 2004. On September
12 7, 2004, Plaintiff paid the filing fee for this action. (ECF No. 11.) On December 1, 2010, a jury
13 rendered a verdict in this case in favor of Defendants. On January 13, 2011, Plaintiff filed a
14 notice of appeal.

15 On February 9, 2011, the District Court granted Plaintiff *in forma pauperis* status on
16 appeal. (ECF No. 241.) The order directed the CDCR to send the Clerk of the Court payments
17 from Plaintiff's account each time the amount of the account exceeds \$10.00, until the \$455.00
18 statutory filing fee for appeal number 11-15109 is paid in full. (ECF No. 241.)

19 On June 4, 2014, Plaintiff filed two motions concerning the filing fees in this action.
20 (ECF Nos. 158, 259.) Plaintiff stated he has paid the filing fee for this action, and he is only
21 responsible for the appellate filing fee of \$455.00. However, he stated prison officials are
22 deducting payments for two filing fees of \$455.00. He stated prison officials have imposed
23 deductions for a \$455.00 filing fee for the instant case: 1:04-cv-05953-LJO-DLB.

24 On March 31, 2015, U.S. Magistrate Judge Dennis L. Beck entered an Order granting
25 Plaintiff's motions as follows:

26 Plaintiff is correct that he has paid the filing fee in the instant action. Therefore,
27 any deduction for a filing fee in this action is erroneous. Plaintiff's trust account
28 should only be deducted for the filing fee owed for the appeal. To the extent that
Plaintiff's trust account has been deducted for a filing fee in this action, the trust

1 account office is directed to return said funds and remove any filing fee attached
2 to this case (1:04-cv-05953-LJO-DLB). The Clerk of Court is DIRECTED to
3 serve a copy of this Order on the prison trust account office at California State
4 Prison, Sacramento.

5 (ECF No. 260.)

6 On June 8, 2017, Plaintiff filed the instant motion. (ECF No. 263.) Plaintiff indicates
7 that prison officials have refused to refund any filing fees erroneously deducted from his trust
8 account with respect to this case because the filing fees were mailed to the Court. Thus, the
9 prison has no ability to refund the fees collected from 2012-2014. Plaintiff requests the Court
10 to refund the money erroneously collected from his trust account with interest of 10 percent.

11 The Court has reviewed its financial records. The records indicate that Plaintiff still
12 owes a debt balance of \$360.20 toward the \$455 filing fee for the appeal that he initiated on
13 January 13, 2011 and collection for that filing fee is ongoing. However, there is no indication
14 that funds are currently or were previously being collected for a filing fee related to this case in
15 addition to the original \$150 filing fee Plaintiff paid on September 7, 2004 to initiate this case.

16 Therefore, the Court's prior order was incorrect to the extent it factually concluded that
17 "prison officials have imposed deductions for a \$455.00 filing fee for the instant case: 1:04-cv-
18 05953-LJO-DLB" in addition to the \$455 filing fee owed for Plaintiff's January 13, 2011
19 appeal.

20 Accordingly, the relief requested by Plaintiff is DENIED as moot.

21 IT IS SO ORDERED.

22 Dated: December 26, 2017

23 /s/ Eric P. Gray
24 UNITED STATES MAGISTRATE JUDGE
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