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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

9 RALPH KELLY HAWTHORNE, JR.,

10 Plaintiff,

11 v.

12 KATHY MENDOZA-POWER, et al.,

13 Defendants.

CASE NO. 1:07-cv-01101-LJO-DLB PC

ORDER DENYING PLAINTIFF’S
MOTION

(ECF No. 91)

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17 Plaintiff Ralph Kelly Hawthorne, Jr., (“Plaintiff”) is a prisoner in the custody of the
18 California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro
19 se in this civil action pursuant to 42 U.S.C. § 1983. On March 4, 2010, judgment was entered in
20 favor of Defendants Kathy Mendoza-Power and K. Henry and against Plaintiff. On March 15,
21 2010, Plaintiff appealed the judgment. On August 17, 2011, the United States Court of Appeals
22 for the Ninth Circuit reversed and remanded. Pending before the Court is Plaintiff’s motion,
23 filed October 31, 2011, for reconsideration. ECF No. 91. However, Plaintiff does not seek
24 reconsideration of any specific court order, but moves for an extension of time to complete
25 Plaintiff’s application for bill of costs to the Ninth Circuit.

26 For the following reasons, Plaintiff’s motion is denied. First, the application is to be filed
27 with the circuit clerk, not the district court. Second, in the order reversing the judgment, the
28 Ninth Circuit specifically stated, “The parties shall bear their own costs on appeal.” Thus, it

1 appears that Plaintiff is precluded from receiving costs, even though he was successful in his
2 appeal.

3 Accordingly, it is HEREBY ORDERED that Plaintiff's motion, filed October 31, 2011, is
4 denied.

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6 IT IS SO ORDERED.

7 Dated: July 31, 2012

/s/ Dennis L. Beck
8 UNITED STATES MAGISTRATE JUDGE

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