

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

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FLOYD SCOTT,

1:09-cv-01329-AWI-SMS-PC

Plaintiff,

ORDER GRANTING PLAINTIFF'S
MOTION TO REOPEN THIS CASE
(Docs. 11, 12.)

vs.

J. PALMER, et al.,

ORDER FOR CLERK TO REOPEN THIS
CASE AND CORRECT THE RECORD
TO REFLECT PAYMENT OF FILING FEE

Defendants.

_____ /

Plaintiff a state prisoner currently incarcerated at Kern Valley State Prison ("KVSP"), is proceeding with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on July 29, 2009, along with an application to proceed in forma pauperis. (Docs. 1, 2.) On October 16, 2009, the court denied plaintiff's application to proceed in forma pauperis and ordered plaintiff to pay the \$350.00 filing fee in full for this action, within thirty days. (Docs. 5, 8.) On December 9, 2009, finding no evidence on the court's docket that plaintiff had paid the filing fee, the court dismissed this action in its entirety. (Doc. 9.)

On December 21, 2009, plaintiff filed a motion to reopen this action, claiming that he paid the \$350.00 filing fee via withdrawal of funds from his prison trust account on November 3, 2009. (Doc. 11.) Plaintiff submitted a copy of a statement from KVSP

1 showing the withdrawal of \$350.00 from his trust account, on November 3, 2009. (Exhibit
2 to motion.) On January 14, 2010, plaintiff filed a motion for status of his case. (Doc. 12.)

3 Plaintiff's motion to reopen this case shall be granted. A review of the court's
4 financial records shows receipt of the \$350.00 filing fee for this action by the State of
5 California on November 6, 2009. The court's record shall be corrected to show payment of
6 the filing fee, and plaintiff's case shall be immediately reopened.

7 Based on the foregoing, IT IS HEREBY ORDERED that:

- 8 1. Plaintiff's motion to reopen this case is GRANTED;
- 9 2. This case is REOPENED; and
- 10 3. The Clerk is DIRECTED to:
 - 11 (1) Immediately reopen this case on the court's docket; and
 - 12 (2) Correct the court's docket to reflect payment by the State of
13 California on Plaintiff's behalf of the \$350.00 filing fee for this action
14 on November 6, 2009, Receipt number CAE100008853.

15
16 IT IS SO ORDERED.

17 **Dated: February 17, 2010**

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE

18
19
20
21
22
23
24
25
26
27
28