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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DONNIE RAY O'NEAL, JR.,
Plaintiff,
v.
CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,
Defendants.

CASE NO. 1:09-cv-01552-MJS (PC)
**ORDER DENYING MOTION FOR
REIMBURSEMENT OF FUNDS**
(ECF No. 40)

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. On September 25, 2012, Plaintiff's second amended complaint was dismissed for failure to state a claim, and the action was closed. (ECF NO. 27.) Plaintiff appealed. (ECF No. 30.)

Plaintiff initially was granted leave to proceed in forma pauperis on appeal. (ECF No. 31.) However, thereafter, Plaintiff moved for voluntary dismissal of the appeal and for reconsideration of the appellate court's order authorizing the collection of filing and docketing fees for the appeal. (See ECF No. 39.) On April 15, 2013, the Ninth Circuit granted Plaintiff's motions and vacated its order directing prison officials to collect filing and docketing fees for the appeal. (Id.)

On June 23, 2014, Plaintiff sent to the Ninth Circuit a letter asserting that prison authorities continued to collect filing and docketing fees notwithstanding the April 15,

1 2014 order. (ECF No. 38.) The Ninth Circuit construed the letter as a request for
2 reimbursement and denied the request without prejudice to Plaintiff renewing his request
3 before this Court.

4 On October 24, 2014, Plaintiff filed in the Ninth Circuit a motion demanding
5 reimbursement of funds. The Ninth Circuit directed the Clerk to transmit Plaintiff's motion
6 to this Court for processing. (ECF No. 40.)

7 Plaintiff was granted leave to proceed in forma pauperis in this action on October
8 7, 2009. (ECF No. 5.) Funds have been collected, and continue to be collected, from
9 Plaintiff's prison trust account pursuant to the October 7, 2009 order. Plaintiff remains
10 obligated to pay these fees even though the action has been dismissed. 28 U.S.C.
11 § 1915(b). Nothing in the Ninth Circuit's April 15, 2014 order affects the validity of this
12 Court's order requiring the collection of filing and docketing fees for the initial action
13 Plaintiff filed in this Court.

14 In contrast, the order authorizing the collection of appellate filing fees was vacated
15 by the Ninth Circuit. The appellate filing fee was never added to Plaintiff's prison trust
16 account, and no appellate filing fees have been collected.

17 Based on the foregoing, Plaintiff's motion demanding reimbursement of funds is
18 HEREBY DENIED.

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20 IT IS SO ORDERED.

21 Dated: February 4, 2015

22 */s/ Michael J. Seng*
23 UNITED STATES MAGISTRATE JUDGE
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