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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JESSIE L. SERRANO,
Plaintiff,
v.
SCOTT RAWERS, et al.,
Defendants.

CASE No. 1:11-cv-00399-MJS
ORDER DENYING MOTION TO REMOVE
FILING FEE FROM PLAINTIFF'S
PRISONER TRUST FUND ACCOUNT
(ECF Nos. 10 & 16)

Plaintiff Jessie L. Serrano is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. On March 9, 2011, the Court issued an order severing Plaintiff's claims from an initial lawsuit filed on behalf of Plaintiff and other prisoners. Plaintiff was instructed to file an amended complaint solely asserting violations of his own constitutional rights and, if necessary, to complete an application to proceed in forma pauperis. (ECF No. 2.) Instructions attached to the March 9, 2011 order notified Plaintiff that would be obligated to pay the \$350.00 filing fee, regardless of his financial status or whether he succeeded in the case. The order also explained the process by which the Court would draw from Plaintiff's prisoner trust account should he be unable to pay the filling fee in full when the action is filed. (Id.)

On April 14, 2011, Plaintiff submitted his application to proceed in forma pauperis and authorized the Court to collect funds from his prisoner trust account in order to

1 satisfy the filing fee. (ECF No. 7.) Plaintiff has since filed two motions, one on April 12,
2 2013 (ECF No. 10) and another on September 23, 2013 (ECF No. 16), respectively,
3 requesting that the Court remove the filing fee charge from his prisoner trust account.

4 "Filing fees are part of the costs of litigation." Lucien v. DeTella, 141 F.3d 773,
5 775 (7th Cir. 1998). "Prisoner cases are no exception. The Prison Litigation Reform Act
6 has no provision for return of fees that are partially paid or for cancellation of the
7 remaining fee." Slaughter v. Carey, 2007 WL 1865501, *2 (E.D. Cal. June 28, 2007)
8 (citing Goins v. Decaro, 241 F.3d 260, 261-62 (2d Cir. 2001) (inmates who proceeded
9 pro se and in forma pauperis were not entitled to refund of appellate fees or to
10 cancellation of indebtedness for unpaid appellate fees after they withdrew their
11 appeals)). In fact, "[a] congressional objective in enacting the PLRA was to 'mak[e] all
12 prisoners seeking to bring lawsuits or appeals feel the deterrent effect created by liability
13 for filing fees.'" Goins, 241 F.3d at 261. Accordingly, Plaintiff's motions to remove the
14 filing fee from his prisoner trust account are DENIED.

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18 IT IS SO ORDERED.

19 Dated: October 22, 2013

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE