

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HUSSEIN ALI KIETTY,) Case No.: 1:13-cv-00312-SAB (PC)
Plaintiff,)
v.)
A. WALKER, et al.,) ORDER DENYING PLAINTIFF'S MOTION
Defendants.) FOR WAIVER OF WITNESSES FEES
) [ECF No. 92]
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Plaintiff Hussein Ali Kietty is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Pursuant to 28 U.S.C. § 636(c), the parties have consented to the jurisdiction of the United States Magistrate Judge. Local Rule 302.

Currently before the Court is Plaintiff's motion entitled "Motion in Limine Requesting Plaintiff's fee waiver application and approval seeking witness testimony under Evidence Insufficiently Excused." Plaintiff "seeks fee waiver application under indigent status unable to pay Marshall service subpoena orders[.]" Plaintiff's motion must be denied.

As explained in the Court’s November 20, 2016, trial scheduling order, no statute authorizes the use of public funds for service of unincarcerated witnesses who refuse to testify voluntarily in civil cases, and the tendering of witness fees and travel expenses is required even if the party was granted leave to proceed in forma pauperis. (Order at 2-3; ECF No. 88.) Thus, in forma pauperis parties, such as Plaintiff, must pay the applicable fees before any subpoena can be served under 28 U.S.C. §

1 1915(d). See Tedder v. Odel, 890 F.2d 210, 211 (9th Cir. 1989) (“Although the plain language of
2 section 1915 provides for service of process for an indigent’s witnesses, it does not waive payment of
3 fees or expenses for those witnesses.”). Accordingly, there is no authority to grant Plaintiff’s motion
4 for waiver of fees to subpoena witnesses for trial, and Plaintiff’s motion must be denied. As noted,
5 Plaintiff was apprised of the procedures for obtaining the attendance of unincarcerated witnesses who
6 refuse to testify voluntarily and Plaintiff must comply with such procedures.

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8 IT IS SO ORDERED.

9 Dated: January 9, 2017


10 UNITED STATES MAGISTRATE JUDGE

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