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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

JOVON’Z SMITH,  
Plaintiff,  
v.  
M. GARCIA,  
Defendant.

Case No. 1:13-cv-02003-AWI-SAB-PC  
ORDER DENYING PLAINTIFF’S MOTION  
FOR REIMBURSEMENT  
(ECF NO. 38)

Plaintiff Smith is appearing pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On December 3, 2015, the parties stipulated to dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) as a result of settlement negotiations. An order was entered, dismissing this action pursuant to the stipulation.

On December 4, 2015, Plaintiff filed declaration in which he seeks reimbursement of part of his settlement. Plaintiff indicates that the trust account offices at CTF Soledad improperly withheld all of Plaintiff’s settlement check for restitution in violation of applicable regulations. On January 11, 2016, an order was entered, construing the declaration as a motion for reimbursement and directing Defendant to file a response.

On January 19, 2016, Defendant filed opposition to Plaintiff’s motion. Defendant’s motion is supported by the declaration of counsel and a copy of the settlement agreement signed by the parties. The settlement agreement includes the following provision:

1 CDCR shall pay Plaintiff \$1,500.00 (the settlement amount).  
2 However, Plaintiff understands that CDCR is obligated by  
3 California Penal Code section 2085.5 to collect any amounts owed  
4 by a prisoner under a restitution fine or order, including any  
5 administrative fees related to such amounts. Such amounts and  
6 fees will be deducted from the settlement amount and paid on  
7 Plaintiff's behalf as required by Penal Code section 2085.5. *If the  
8 settlement amount exceeds the restitution amounts and fees, the  
9 excess balance shall be made by check to Plaintiff's inmate trust  
10 account or to another payee of designated by Plaintiff.* Plaintiff  
11 further understands that CDCR is obligated to pay all outstanding  
12 liens against Plaintiff, known or unknown, if any, which amounts  
13 must be deducted from the settlement amount and paid on  
14 Plaintiff's behalf to the lienholder(s).

9 (Decl. of T. Johnson, Ex. A, emphasis added.)

10 Penal Code section 2085.5(n) specifically states that any settlement funds awarded to an  
11 inmate "shall be paid directly ... to satisfy any outstanding restitution orders or restitution fines  
12 against that person." The remainder of the settlement, if any, will be forwarded to the inmate  
13 only if the settlement funds exceed the restitution balance. Cal. Pen. Code § 2085.5(n). In this  
14 case the settlement amount did not exceed the restitution amount. Defendant correctly notes that  
15 Plaintiff's exhibit attached to his motion indicates that he owes approximately \$15,000 in  
16 restitution orders and fines. The \$1,500 settlement payment was applied towards Plaintiff's  
17 restitution order pursuant to the requirements of Penal Code section 2085.5(n). Because the  
18 CDCR complied with the terms of the settlement agreement and the law, Plaintiff's motion  
19 should be denied.

20 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for reimbursement filed  
21 on December 4, 2015, is DENIED.

22 IT IS SO ORDERED.

23 Dated: August 15, 2016

24   
25 SENIOR DISTRICT JUDGE