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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 FRANK LEE DEARWESTER,

12 Plaintiff,

13 vs.

14 CALIFORNIA DEPARTMENT OF
15 CORRECTIONS AND
REHABILITATION, et al.,

16 Defendants.
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1:15-cv-00415-GSA-PC

**ORDER DENYING PLAINTIFF'S
MOTION FOR RELIEF FROM
FILING FEES
(ECF No. 33.)**

22 Frank Lee Dearwester ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
23 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. On July 13, 2016, this case
24 was dismissed for failure to state a claim, judgment was entered, and the case was closed. (ECF
25 No. 31, 32.)

26 On May 8, 2020, Plaintiff filed a motion for relief from the filing fees under the Prisoner
27 Litigation Reform Act (PLRA). (ECF No. 33.) Plaintiff moves to modify the collection of filing
28 fees from his inmate trust account.

1 Pursuant to the PLRA, a prisoner proceeding *in forma pauperis* is required to pay the full
2 filing fee when bringing a civil action. See 28 U.S.C. § 1915(b)(1). After collection of an initial
3 filing fee, the prisoner is statutorily obligated, when funds exist, to make “monthly payments of
4 20 percent of the preceding month’s income credited” to the prisoner’s inmate trust account. Id.
5 § 1915(b)(2). These payments are collected and forwarded by the agency having custody of the
6 prisoner to the Clerk of the Court.

7 Plaintiff currently works for the California Department of Corrections and Rehabilitation
8 at Mule Creek State Prison producing reusable fabric face masks that are in demand due to the
9 Covid-19 pandemic. Plaintiff works full time, seven days per week, for up to ten hours per day.
10 He currently earns \$.50 (fifty cents) per hour.

11 Plaintiff filed several civil rights cases in multiple courts and was granted leave to proceed
12 *in forma pauperis*. Fifty-five percent of Plaintiff’s wages are deducted for court-ordered
13 restitution. Plaintiff’s understanding was that 20 percent of his wages would be deducted for
14 filing fees in addition to the 55 percent for restitution. He was not aware until he became
15 employed that filing fees from multiple cases would “stack up” instead of being taken
16 sequentially. (ECF No. 33 at 2:20.) CDCR deducts 20 percent from Plaintiff’s wages for each
17 of the cases in which fees are owed, depleting Plaintiff’s funds to no more than \$10.00 per month.
18 Plaintiff would like to purchase supplemental food and coffee to help fuel his extra work hours.
19 Plaintiff requests the court to limit the number of deductions per month from his wages to 20
20 percent total beyond the 55 percent for restitution.

21 The United States Supreme Court has held that § 1915(b)(2) “calls for ‘monthly payments
22 of 20 percent of the preceding month’s income’ *simultaneously for each action* pursued” rather
23 than payments of 20 percent collected *sequentially* for each action. Bruce v. Samuels, 577 U.S.
24 82, 90 (2016) (emphasis added). In Bruce, the Supreme Court expressly rejected Plaintiff’s
25 argument and approved “a per-case approach under which a prisoner would pay 20 percent of
26 his monthly income *for each case* he has filed.” Id. at 84 (emphasis added). Accordingly,
27 Plaintiff has no grounds for relief.

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