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

ANDREW S. ANDERSEN,)	Case No.: 1:16-cv-00236-DAD-SAB (PC)
)	
Plaintiff,)	
)	<u>ORDER DENYING PLAINTIFF’S REQUEST</u>
v.)	<u>FOR COSTS OF FILING FEE FOR NOTICE OF</u>
)	<u>APPEAL</u>
MARISELA MONTES, et al.,)	
)	[ECF No. 33]
Defendants.)	
)	
)	

Plaintiff Andrew S. Andersen is appearing pro se in this civil rights action pursuant to 42 U.S.C. § 1983.

On July 11, 2017, the instant action was dismissed for failure to state a cognizable claim for relief and judgment was entered. (ECF Nos. 24, 25.)

On December 29, 2017, the United States Court of Appeals for the Ninth Circuit affirmed in part and vacated in part the Court’s July 11, 2017, judgment, and the action was remanded back to this Court. (ECF No. 30.)

On January 24, 2018, the Court directed Plaintiff to file an amended complaint only as to his allegations relating to an alleged facial challenge to the parole procedure. (ECF No. 32.)

On February 2, 2018, Plaintiff filed a motion for bill of courts in the amount of \$505.00-the cost of the filing file for his notice of appeal. (ECF No. 33.)

///

1 Pursuant to Federal Rules of Appellate Procedure 39, “if a judgment is affirmed in part,
2 reversed in part, modified, or vacated, costs are taxed only as the court orders.” Fed. R. App. P.
3 39(a)(4).

4 In this instance, the Ninth Circuit affirmed in part the court’s screening order which found that
5 plaintiff’s as applied challenge to the parole procedures was not cognizable, but reversed as to
6 plaintiff’s facial challenge to the parole procedures. (ECF No. 30.) As an initial matter, no Defendant
7 was served or appeared in this action as the dismissal was under 28 U.S.C. § 1915A prior to service.
8 Thus, there is no Defendant to tax costs against. Furthermore, although Plaintiff prevailed in part of
9 the appeal, the action was reversed and remanded for further screening under 28 U.S.C. § 1915A, and
10 the Court finds that Plaintiff is not entitled to costs of filing the notice of appeal in this instance.
11 Accordingly, Plaintiff’s motion for bill of costs is denied.

12
13 IT IS SO ORDERED.

14 Dated: March 26, 2018



UNITED STATES MAGISTRATE JUDGE