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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SALVADOR CERVANTES,
Plaintiff,
v.
B. LINDSEY, et al.,
Defendants.

Case No. 1:16-cv-00456-MJS (PC)

**ORDER DENYING REQUEST FOR REFUND
OF FILING FEE
(ECF NO. 12)**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On July 22, 2016, Plaintiff's complaint was dismissed, at Plaintiff's request, as duplicative of the action in Case No. 1:16-cv-00343-BAM. (ECF No. 7.) CDCR was directed not to collect payments toward Plaintiff's filing fee for this action. (Id.)

On August 19, 2016, Plaintiff requested a refund of \$50.00 he claimed had already been collected by the CDCR in relation to this action. (ECF No. 8.) On August 26, 2016, the then-assigned Magistrate Judge granted Plaintiff's request and ordered the Clerk of the Court to return funds paid toward his filing fee. (ECF No. 9.)

On October 24, 2016, Plaintiff filed a notice indicating that he had not yet received the \$50.00 refund. (ECF No. 10.) The undersigned denied Plaintiff's request for a refund and advised Plaintiff that Court records reflected that no fee was ever forwarded by

1 CDCR to the Court in relation to this case. Plaintiff was provided a copy of the payment
2 history for the case. He was advised to provide evidence to the Court if he had reason to
3 believe funds had, in fact, been provided to the Court.

4 Plaintiff responded on August 28, 2017. He states that the Court provided him
5 information concerning the wrong case number and also provides a copy of his prison
6 trust account statement dated August 10, 2017. (ECF No. 12.)

7 Plaintiff has been provided information regarding the correct case number. The
8 case was formerly assigned to Magistrate Judge Dennis L. Beck and was given Case
9 No. 1:16-cv-00456-DLB. On October 27, 2016, the matter was reassigned to the
10 undersigned and re-numbered Case No. 1:16-cv-00456-MJS. Accordingly, Plaintiff was
11 provided information for the correct case. There is no payment associated with this case.

12 The trust account statement submitted by Plaintiff does not show otherwise. It
13 shows that \$20.13 was withdrawn from his account on August 1, 2016 and voided the
14 same date. It also shows that encumbrances relating to this Court were placed in May
15 and July of 2016 but also were voided. It shows the "amount paid to date" on his PLRA
16 obligation is \$0.

17 Based on the information before the Court, the Court has no basis to suggest any
18 funds were received from Plaintiff in relation to this case. His request for refund is
19 HEREBY DENIED.

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21 IT IS SO ORDERED.

22 Dated: April 6, 2018

/s/ Michael J. Seng
23 UNITED STATES MAGISTRATE JUDGE
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