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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ABEL P. REYES,

Plaintiff,

v.

M. FLORES,

Defendant.

Case No. 1:16-cv-00586-CDB (PC)

**ORDER DENYING PLAINTIFF’S MOTION
FOR A REFUND**

(Doc. 193)

I. INTRODUCTION

This case was dismissed and closed on August 4, 2023, after the parties filed a stipulation of dismissal. (*See* Docs. 191 & 192.) On January 17, 2024, Plaintiff Abel P. Reyes moved for a refund of monies related to witness fees. (Doc. 193.)

II. DISCUSSION

Plaintiff seeks the return of monies paid for witness fees by way of money orders. (Doc. 193.) More specifically, he seeks a refund in the amount of \$1,050.20. (*Id.* at 2.)

Relevant Background

A review of the docket for this matter reveals Plaintiff submitted eleven money orders in connection with witness fees on August 27, 2019 in anticipation of trial, which at that time was scheduled to commence on October 29, 2019. (Doc. 85 at 9.).

The Court issued an Order Directing Service of Subpoenas on Unincarcerated Witnesses

1 by the United States Marshal on October 16, 2019. (Doc. 106.) That order directed the Marshal
2 “to serve the subpoenas and money orders” on B. Whitfield, G. Andrade, T. Macias, Alford, E.
3 Cortez, M. Campbell, J. Kim, A. Horan, J. Noor, A. Snyder, and P. Hugh. (*Id.* at 2-5.)

4 On October 25, 2019, the Marshal filed a return of service, indicating witnesses A. Horan,
5 B. Whitfield, G. Andrade, E. Cortez, and Alford were personally served. (Doc. 107.)

6 After the trial was delayed to accommodate the appointment of counsel for Plaintiff (Doc.
7 114), the Marshal indicated it had personally served T. Macias (Doc. 116) but had been unable to
8 serve J. Noor and P. Hugh. (Doc. 115). Therefore, the money orders for Noor and Hugh were
9 returned to the Clerk of the Court. Days later, the Marshal reported M. Flores and A. Snyder had
10 been personally served. (Docs. 117 & 118.)

11 On December 2, 2019, the Court issued its Order Directing Clerk of Court to Return to
12 Plaintiff Witness Fees for Jaber Noor and Perkin Hugh. (Doc. 122.) The Clerk returned the
13 money orders (#26043343291 - \$166.44; #26053343302 - \$174.56) via United States mail
14 directed to remitter Ortense P. Reyes that same date.

15 After trial in this matter was delayed for various reasons over a period of about two years,
16 the matter was set for jury trial before the undersigned on August 2, 2023. (Doc. 162.)

17 On July 21, 2023, the Court issued its Order Directing Service of Subpoenas on
18 Unincarcerated Non-CDCR Affiliated Witnesses by the United States Marshal. (Doc. 183.) The
19 Court noted defense counsel’s inability to reach several witnesses. (*Id.* at 2.) The Court directed
20 the Marshal to serve M. Campbell and A. Snyder, noting witness fees had previously been
21 provided to those individuals. (*Id.* at 3-4.)

22 When the parties filed a notice of settlement on July 21, 2023 (Doc. 185), the Court issued
23 its Order Discharging Order Directing Service of Subpoenas on Unincarcerated Non-CDCR
24 Affiliated Witnesses by the United States Marshal on July 24, 2023 (Doc. 188). Shortly
25 thereafter, the Marshal reported it had been unable to serve M. Campbell and A. Snyder as
26 previously ordered. (Docs. 189 & 190.)

27 ***Analysis***

28 As noted above, the money orders for witnesses Noor and Perkin were returned to

1 Plaintiff through Ortense P. Reyes on December 2, 2019, and Plaintiff appears to acknowledge
2 those funds were returned previously. (*See* Doc. 193 at 2.) Plaintiff specifically seeks the return of
3 the money orders made payable to B. Whitfield, G. Andrade, T. Macias, Alford, E. Cortez, J.
4 Kim, A. Horan, M. Campbell and A. Snyder. (*Id.* at 1-2.)

5 As to those individuals, this Court's records indicate that all were served with subpoenas
6 and the accompanying money orders covering the required witness fees:

7 B. Whitfield was personally served on October 25, 2019

8 G. Andrade was personally served on October 25, 2019

9 T. Macias was personally served on October 22, 2019

10 Alford was personally served on October 25, 2019

11 E. Cortez was personally served on October 25, 2019

12 J. Kim was personally served on October 30, 2019

13 A. Horan was personally served on October 25, 2019

14 M. Campbell was personally served on November 19, 2019

15 A. Snyder was personally served on October 30, 2019

16 (*See* Docs. 107, 109, 116, 117 & 118.) Moreover, the undersigned has confirmed with the Clerk
17 of the Court that the Court is not in possession of any money orders, or any other funds, relating
18 to this action. Simply put, there are no monies to return or refund to Plaintiff. Plaintiff's remedy,
19 if any, for the return of witness fees lies elsewhere.

20 **III. CONCLUSION AND ORDER**

21 For the reasons stated above, **IT IS HEREBY ORDERED** that Plaintiff's motion or
22 request for a refund (Doc. 193) is **DENIED**.

23 IT IS SO ORDERED.

24 Dated: February 7, 2024

25 
UNITED STATES MAGISTRATE JUDGE