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9	UNITED STATES DISTRICT COURT		
10	EASTERN DISTRICT OF CALIFORNIA		
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12	TYRONE WILLIAMS,	1:16-cv-00734-DAD-MJS (PC)	
13	Plaintiff,	ORDER (1) DENYING PLAINTIFF'S	
14	V.	REQUEST TO WAIVE THE \$350.00 FILING FEE AND (2) DIRECTING PAYMENT OF INMATE FILING FEE BY	
15	FRESNO COUNTY DISTRICT ATTORNEY'S OFFICE, et al.,	THE FRESNO COUNTY JAIL IN	
16	Defendants.	ACCORDANCE WITH THE COURT'S JUNE 15, 2016 ORDER	
17		(ECE No. 42)	
18		(ECF No. 12)	
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20	Plaintiff is a county inmate proceeding pro se in a civil rights action pursuant to 42		
21	U.S.C. § 1983. On May 23, 2016, he requested leave to proceed in forma pauperis		
22	pursuant to 28 U.S.C. § 1915. (ECF No. 3.) On June 15, 2016 Plaintiff's request was		
23	granted. (ECF No. 11.) The Court directed the Sheriff of the Fresno County Jail, or his		
2425	designee, to collect payments from Plaintiff's prison trust account in an amount equal to		
2526	twenty percent (20%) of the preceding month's income credited to the prisoner's trus		
27	account and forward those payments to the Clerk of Court each time the amount in the		
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account exceeds \$10.00, in accordance with 28 U.S.C. § 1915(b)(2), until a total of \$350.00 has been collected and forwarded to the Clerk of Court. (ECF No. 11.)

Plaintiff has now filed a motion requesting he not be required to pay the \$350.00 fee. (ECF No. 12.) That request will be denied.

Section 1915 allows an indigent prisoner to file a civil action without paying the filing fee upfront. 28 U.S.C. §§ 1915(a)(1) and (2). It does not eliminate the filing fee altogether; rather, it allows the prisoner to pay the filing fee in monthly installments.

Under the in forma pauperis statute, a prisoner proceeding in forma pauperis "shall be required to pay the full amount of a filing fee." 28 U.S.C. § 1915(b)(1). The Court must collect, as partial payment, an initial partial filing fee of 20 percent of the greater of:

- (A) the average monthly deposits to the prisoner's account; or
- (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.
- <u>Id.</u> Additionally, "[a]fter payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account." 28 U.S.C. § 1915(b)(2). However, "in no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee." 28 U.S.C. § 1915(b)(4).

Therefore, to the extent Plaintiff has or will have funds available in his prisoner trust fund account, the Court is authorized to collect a portion of those funds to cover Plaintiff's filing fee. If, however, Plaintiff has no funds available, his case will not be barred solely on those grounds.

Accordingly, IT IS HEREBY ORDERED that:

- 1. Plaintiff's request that the \$350.00 filing fee be waived (ECF No. 12) is DENIED.
- 2. Plaintiff will proceed in forma pauperis.

1	3. The Sheriff of the Fresno County Jail or his designee shall collect payments	
2	from Plaintiff's trust account in accordance with the Court's June 15, 2016	
3	order. (ECF No. 11.)	
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5	IT IS SO ORDERED.	
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7	Dated: June 26, 2016 /s/ Michael J. Seng	
8	UNITED STATES MAGISTRATE JUDGE	
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