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2
3 UNITED STATES DISTRICT COURT
4 EASTERN DISTRICT OF CALIFORNIA

5 JONATHAN ELLIOTT HIGGINS,
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7 Plaintiff,

8 v.

9 LOUIS RODRIGUEZ, et al.,
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11 Defendants.
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1:16-cv-00819-DAD-EPG (PC)

ORDER GRANTING PLAINTIFF'S
MOTION TO DISMISS PAYMENT OF
COURT FILING FEE
(ECF NO. 11)

ORDER VACATING ORDER
GRANTING APPLICATION TO
PROCEED IN FORMA PAUPERIS
AND ORDER DIRECTING PAYMENT
OF INMATE FILING FEE BY
CALIFORNIA DEPARTMENT OF
CORRECTIONS
(ECF NO. 4)

ORDER FOR CLERK TO SERVE
COPY OF THIS ORDER ON
DIRECTOR OF CDCR AND
FINANCIAL DEPARTMENT

17 This action was dismissed on September 15, 2016. (ECF No. 10). Prior to the action
18 being dismissed, Jonathan Higgins ("Plaintiff") filed an application to proceed in forma
19 pauperis under 28 U.S.C. § 1915. (ECF No. 2). On June 15, 2016, the Court issued an order
20 granting Plaintiff's application to proceed in forma pauperis and directing the California
21 Department of Corrections and Rehabilitation ("CDCR") to collect monthly payments from
22 Plaintiff's inmate trust account until the filing fee is paid in full. (ECF No. 4).

23 On April 6, 2017, Plaintiff filed a motion to dismiss payment of Court filing fee. (ECF
24 No. 11). Plaintiff states that this case was a duplicate case. (Id.). Plaintiff requests that he not
25 be required to pay the filing fee for this case and a refund of any portion of the filing fee that he
26 has paid thus far. (Id.).

27 Plaintiff's motion will be granted. Plaintiff notified the Court that a duplicate case was
28 filed (ECF No. 8), and this case was dismissed because it was duplicative of case 1:16-cv-

1 00804-DAD-SAB (ECF No. 10). However, according to the Court's financial records, Plaintiff
2 has not made any payments towards the filing fee in this case. Accordingly, there is nothing to
3 refund to Plaintiff.

4 Based on the foregoing, IT IS HEREBY ORDERED that:

- 5 1. Plaintiff's motion to dismiss payment of Court filing fee is GRANTED;
- 6 2. Plaintiff does not have to pay the filing fee for this case;
- 7 3. The Court's order granting Plaintiff's application to proceed in forma pauperis
8 and its order directing payment of inmate filing fee by California Department of
9 Corrections are VACATED. The Director of the CDCR is DIRECTED to stop
10 deducting funds from Plaintiff's prison trust account for payment of the filing
11 fee for this case; and
- 12 4. The Clerk of Court is directed to serve a copy of this order on:
 - 13 a. The Director of the CDCR, via CM/ECF; and
 - 14 b. The Financial Department, U.S. District Court, Eastern District of
15 California, Fresno Division.

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17 IT IS SO ORDERED.

18 Dated: April 10, 2017

18 /s/ Eric P. Gray
19 UNITED STATES MAGISTRATE JUDGE