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

GREGORY ELL SHEHEE,  
Plaintiff,  
v.  
PEREZ, et al.,  
Defendants.

Case No. 1:16-cv-01346-AWI-BAM (PC)  
**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS REGARDING  
DENIAL OF PLAINTIFF’S MOTION TO  
PROCEED IN FORMA PAUPERIS**  
(ECF No. 22)  
**FORTY-FIVE (45) DAY DEADLINE**

Plaintiff Gregory Ell Shehee (“Plaintiff”) is a county jail inmate proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983.

**I. Background**

On February 6, 2017, the Court directed Plaintiff to submit a prisoner application to proceed in forma pauperis in this action. (ECF No. 11.) On March 3, 2017, Plaintiff filed an application to proceed in forma pauperis that failed to clearly describe the source of money he received in the form of a settlement check, and if he expected to receive additional amounts. (ECF No. 13.) The Court denied the motion without prejudice and directed Plaintiff to file a completed in forma pauperis application or to pay the filing fee within forty-five (45) days. (ECF No. 15.) On April 10, 2017, Plaintiff filed a renewed motion to proceed in forma pauperis and a declaration in support. Plaintiff indicated that he received a one-time payment of approximately \$4,200.00 from a legal settlement, and appeared to state that he retained a balance of \$4,000.00 in his jail account. Plaintiff did not include a certified copy of his trust account statement, and the certification portion of the in forma pauperis application was blank. (ECF Nos. 18, 19.) The Court issued another order directing Plaintiff to file a completed application or to pay the filing fee within forty-five (45) days. (ECF No. 20.)

1 On May 5, 2017, Plaintiff filed a renewed application to proceed in forma pauperis,  
2 including is a certified copy of Plaintiff's prison trust account statement. The trust account  
3 statement indicated that during the prior six months Plaintiff held an average monthly balance of  
4 \$3,616.66 in his account, and his current balance was \$3,386.10. (ECF No. 21.)

5 On May 11, 2017, the assigned magistrate judge issued findings and recommendations  
6 recommending that Plaintiff's motion to proceed in forma pauperis be denied. (ECF No. 22.)  
7 Those findings and recommendations were served on Plaintiff and contained notice that any  
8 objections thereto were to be filed within fourteen (14) days after service. (Id.) Plaintiff timely  
9 filed objections on May 24, 2017. (ECF No. 23.)

## 10 **II. Objections**

11 In his objections, Plaintiff contends that he should be allowed to proceed in forma  
12 pauperis because he is a civil detainee, not a prisoner, and the money in his trust account came  
13 from a one-time settlement payment but he has no other income or support. In the alternative,  
14 Plaintiff requests a reduction of the filing fee to \$200.00, or that the Court order the Sheriff's  
15 Inmate Trust Accounting Department to direct payment of the filing fee to the Court.

16 Plaintiff's objections are unavailing. Examination of Plaintiff's trust prison trust account  
17 statement reveals that he is more than able to afford the costs of this action, regardless of the  
18 source or infrequency of the funds.

19 With respect to Plaintiff's offer to pay only \$200.00 towards the filing fee, Plaintiff is  
20 reminded that the Court will accept multiple checks for payment if he is unable to withdraw the  
21 full amount requested in a single check. Nevertheless, Plaintiff will be responsible for payment of  
22 the entire \$400.00 filing fee.

23 Plaintiff's remaining argument that he was without funds to pay the costs of this action at  
24 the time of filing is similarly unpersuasive. Had Plaintiff's motion to proceed in forma pauperis  
25 been granted initially, Plaintiff would still be required to pay the filing fee in installments  
26 pursuant to 28 U.S.C. § 1915. Once he received his settlement check, the funds would then have  
27 been applied to any remaining balance for this action.

28 Plaintiff indicates that he has submitted multiple requests for payment of the filing fee to

1 be sent to the Court, but has received no responses. Plaintiff has filed a grievance for retaliation  
2 with respect to his inmate trust account. At this time, the Court declines to order the Sheriff's  
3 department to pay the filing fee. Plaintiff will be given forty-five (45) days from the date of  
4 service of this order to pay the \$400.00 filing fee for this action. If Plaintiff continues to receive  
5 no responses to his requests to the Sheriff's department, Plaintiff should file a separate motion  
6 seeking assistance from the Court. In addition, to the extent Plaintiff wishes to raise new claims  
7 against the Sherriff's department, those claims are not properly before the Court in this action.

8 **III. Conclusion and Order**

9 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a  
10 de novo review of this case. Having carefully reviewed the entire file, the Court finds the  
11 findings and recommendations to be supported by the record and by proper analysis.

12 Accordingly,

- 13 1. The findings and recommendations issued on May 11, 2017 (ECF No. 22), are  
14 adopted in full;
- 15 2. Plaintiff's motion to proceed in forma pauperis (ECF No. 21) is denied;
- 16 3. Within **forty-five (45) days** following the date of service of this order, Plaintiff shall  
17 pay the \$400.00 filing fee in full to proceed with this action.
- 18 4. If Plaintiff fails to pay the filing fee within the specified time, this action will be  
19 dismissed; and
- 20 5. The matter is referred back to the assigned magistrate for proceedings consistent with  
21 this order.

22 IT IS SO ORDERED.

23 Dated: June 27, 2017

24   
25 SENIOR DISTRICT JUDGE