



1 of \$1,135.55, and based on his application and supporting documentation, he is able to pay the filing  
2 fee for this action. (ECF No. 5.)

3 The Findings and Recommendations were served on Plaintiff and contained notice that  
4 objections were to be filed within thirty days. On June 19, 2017, Plaintiff timely filed objections.  
5 (ECF No. 7.)

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de*  
7 *novo* review of this case. Having carefully reviewed the entire file, including Plaintiff's objections,  
8 the Court finds the Findings and Recommendations to be supported by the record and by proper  
9 analysis.

10 Plaintiff objects that his failure to provide a trust account statement showing six months of  
11 activity prior to filing his complaint was due to an inadvertent error by prison officials, and he has now  
12 supplemented his application with the necessary statement. (ECF No. 7, p. 11.) The Court accepts  
13 Plaintiff's explanation, and finds the trust account statement he has now submitted to be sufficient.

14 Plaintiff further objects that he cannot work due to mobility impairment, but receives sporadic  
15 financial help from friends and family members. This includes \$999 that was received from a friend  
16 on March 3, 2017, which was sent to help Plaintiff with court costs. Plaintiff further submits that due  
17 to certain restrictions, he makes periodic large canteen purchases to last for several months. Plaintiff  
18 explains that his most recent purchases totaling \$252.80 noted by the Magistrate Judge as an apparent  
19 discretionary expenditure was for additional food to supplement his prison meals.

20 The Court finds no error in the Magistrate Judge's finding that Plaintiff is financially able to  
21 prepay the entire filing fee to commence this action. Plaintiff has explained that despite having no  
22 income from work, he receives financial assistance from friends and family, including for the payment  
23 of court costs. A district judge is entitled to consider a plaintiff's "economic choices about how to  
24 spend his money, as between his filing fee and comforts purchased in the prison commissary."  
25 Olivares v. Marshall, 59 F.3d 109, 112 (9th Cir. 1995). Under the circumstances present here, the  
26 Court finds it appropriate to order Plaintiff to prepay the \$400 filing fee if he wishes to proceed in this  
27 action.

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Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed on May 25, 2017, are adopted in full;
2. Plaintiff's motion for leave to proceed in forma pauperis in this action (ECF No. 3) is DENIED;
3. Plaintiff is directed to pay the \$400 filing fee in full, or a notice of voluntary dismissal, within thirty (30) days of the date of service of this order; and
4. The failure of Plaintiff to timely pay the filing fee will result in the dismissal of this case without further notice.

IT IS SO ORDERED.

Dated: July 21, 2017

  
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SENIOR DISTRICT JUDGE