1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 GUILLERMO TRUJILLO CRUZ, No. 1:17-cv-01474-DAD-BAM (PC) 12 Plaintiff. 13 v. ORDER DISMISSING ACTION FOR FAILURE TO PAY THE REQUIRED FILING 14 SAVOIE, et al., FEE AND FAILURE TO OBEY A COURT ORDER 15 Defendants. 16 17 Plaintiff Guillermo Trujillo Cruz is a state prisoner proceeding pro se in this civil rights 18 action brought pursuant to 28 U.S.C. § 1983. 19 Plaintiff's initial motion to proceed in forma pauperis was granted on November 21, 2017. 20 (Doc. No. 7.) On August 6, 2018, however, the assigned magistrate judge issued an order 21 requiring plaintiff to show cause in writing why his in forma pauperis status should not be 22 revoked pursuant to 28 U.S.C. § 1915(g). (Doc. No. 18.) Plaintiff filed a response to that order on August 23, 2018. (Doc. No. 23.) On October 24, 2018, the magistrate judge issued findings 23 24 and recommendations, recommending that plaintiff's in forma pauperis status be revoked and that he be required to pay the required \$400.00 filing fee in full to proceed with this action. (Doc. No. 25 26 26.) After seeking and receiving an extension of time to do so, plaintiff filed both a second 27 response to the earlier issued order to show cause as well as objections to the October 24, 2018 28 findings and recommendations. (Doc. Nos. 29, 31.)

1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	

21

22

23

24

25

26

27

28

On March 26, 2019, following *de novo* review of the case, the undersigned adopted the October 24, 2018 findings and recommendations and ordered plaintiff to pay the required filing fee in full within twenty-one (21) days to proceed with this action. (Doc. No. 33.) Plaintiff was warned that failure to pay the filing fee would result in dismissal of this action. (*Id.* at 3.) In lieu of paying the filing fee, on April 8, 2019, plaintiff filed a second motion to proceed *in forma pauperis* (Doc. No. 34), which the court declined on May 28, 2019 after construing plaintiff's filing as a motion for reconsideration of the court's earlier order adopting the magistrate judge's findings and recommendations. (Doc. No. 35.) The court granted plaintiff an additional fourteen (14) days to pay the required filing fee in full. (*Id.* at 4.) Plaintiff was again warned that failure to pay the filing fee would result in dismissal of this action. (*Id.*)

Nearly a month after the deadline to pay the required filing fee, and again instead of paying that fee, on July 12, 2019, plaintiff filed a notice of appeal of this court's May 28, 2019 order denying plaintiff's motion for reconsideration with the Ninth Circuit. (Doc. Nos. 38, 39.) On January 24, 2020, the Ninth Circuit dismissed plaintiff's appeal for lack of jurisdiction. (Doc. No. 44.) Plaintiff moved for reconsideration of the Ninth Circuit's dismissal of his appeal, that motion was denied by that court on May 14, 2020, and its mandate was issued on May 22, 2020. (Doc. Nos. 47, 48.)

Because plaintiff's interlocutory appeal of this court's May 28, 2019 order has been resolved, and because plaintiff has still not paid the required filing fee as ordered, despite being granted several opportunities to do so and despite being warned twice that his failure to do so would result in dismissal of this action, the court will now dismiss this action.

Accordingly,

- 1. This action is dismissed without prejudice due to plaintiff's failure to comply with a court order and his failure to pay the required filing fee;
- 2. All pending motions in this action—including plaintiff's two motions for orders compelling discovery and his third motion to proceed *in forma pauperis* (Doc. Nos. 37, 40, 43)—are denied as moot;

/////

1	3. The Clerk of the Court is directed to close this action; and	
2	4. No further filings will be entertained in this closed case.	
3	IT IS SO ORDERED.	
4	Dated: May 28, 2020	Dale A. Dragd
5	1714y 20, 2020	UNITED STATES DISTRICT JUDGE
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
2627		
28		
40		