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JOSE LORENZO MORALES,

v.

DAVEY, et al.,

Plaintiff,

Defendants.

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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

Case No. 1:17-cv-01673-SKO (PC)

ORDER DIRECTING STATEMENT FROM CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION ON PLAINTIFF'S TRUST ACCOUNT BALANCE FROM JUNE 13, 2017 TO DECEMBER 13, 2017

SEVEN DAY DEADLINE

Plaintiff, Jose Lorenzo Morales, is a prisoner in the custody of the California Department of Corrections and Rehabilitation ("CDCR"). Plaintiff is proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983, and has filed an application to proceed *in forma pauperis* under 28 U.S.C. § 1915. (Doc. 1, 3.) The CDCR has twice been directed to submit a certified prison trust account statement for Plaintiff reflecting activity for the last six months, or an explanation as to why this information cannot be provided. (*See* Docs. 7, 9.)¹ Despite this, the latest copy of Plaintiff's trust fund account statement submitted by the CDCR reflects a current available balance is "\$0.00," but shows neither the activity for the six months preceding initiation of this action, nor an explanation as to why such information cannot be provided. (*See* Doc. 10.)

When considering an *in forma pauperis* application, section 1915 requires the Court to review an inmate's trust account statement "for the 6-month period immediately preceding the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner was confined." 28 U.S.C. §1915(a)(2).

¹ Previously, CDCR was ordered to submit a copy of Plaintiff's certified prison trust account statement, but that order mistakenly listed another inmate's identification number. (*See* Doc. 5.)

Review of the CDCR's website indicates that Plaintiff has been in custody since June 30, 2014. Since Plaintiff has been in custody for more than six months prior to the initiation of this action, CDCR should be able to comply with the requirements of section 1915(a)(2). The Court understands that it is possible that Plaintiff did not have any funds at his disposal in his prison trust account during the six months before he filed this action. If this is the case, a statement of explanation must be submitted. The skeletal copy of Plaintiff's trust account statement as currently submitted by the CDCR is insufficient.

Accordingly, within seven days of the date of this order, the CDCR is directed to file a statement indicating the average deposits into Plaintiff's trust account and the average balance of Plaintiff's inmate trust account from June 13, 2017, to December 13, 2017. The Clerk of the Court is directed to forward this order to the CDCR.

IT IS SO ORDERED.

Dated: December 27, 2017 /s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE