

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

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ERICK EDDIE RODRIGUEZ,

Plaintiff,

v.

M. CATE, et al.,

Defendants.

Case No.: 1:21-cv-00898-DAD-SKO (PC)

**ORDER DISCHARGING ORDER TO
SHOW CAUSE (Doc. 28)**

**ORDER DENYING PLAINTIFF’S MOTION
FOR 60 DAY EXTENSION OF TIME
WITHIN WHICH TO PAY FILING FEE AS
MOOT (Doc. 29)**

Plaintiff Erick Eddie Rodriguez is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983.

I. BACKGROUND

On August 23, 2021, the undersigned issued Findings and Recommendations to Deny Plaintiff’s Motion to Proceed *In Forma Pauperis*. (Doc. 21.) Following subsequent re-service by mail to a temporary address,¹ Plaintiff filed objections on October 19, 2021. (Doc. 22.) On October 27, 2021, District Judge Dale A. Drozd adopted the Findings and Recommendations in full. (Doc. 23.) Judge Drozd denied Plaintiff’s motion to proceed *in forma pauperis* and ordered that Plaintiff pay the \$402 filing fee within 90 days. (*Id.* at 2.)

¹ On July 16, 2021, Plaintiff filed a document indicating a temporary change of address to the Los Angeles County Jail. (Doc. 18.) On November 12, 2021, Plaintiff advised he had been transferred back to High Desert State Prison in Susanville, California. (Doc. 25.)

1 After more than 90 days had passed, the Court issued an Order to Show Cause Why
2 Action Should Not Be Dismissed for Failure to Pay the Filing Fee (“OSC”). (Doc. 28.) Plaintiff
3 was given 21 days within which to file a reply to the OSC.

4 On March 28, 2022, Plaintiff filed a response to the OSC (Doc. 30) and a request for an
5 extension of time of 60 days within which to pay the filing fee (Doc. 29).

6 On March 29, 2022, Plaintiff paid the \$402 filing fee.

7 **II. DISCUSSION**

8 In an unsigned and undated response to the OSC, Plaintiff indicates a willingness to pay
9 the \$402 filing fee as previously ordered but indicated an extension of time would be needed.
10 (Doc. 30 at 1.) In a motion or request filed on that same date, Plaintiff asks² for “an additional 45
11 to 60 days extension of time to pay for the filing fees of \$402.” (Doc. 29 at 1.)

12 The undersigned was prepared to grant Plaintiff a final 60-day extension of time within
13 which to pay the \$402 filing fee. However, before an Order could be completed and signed, a
14 docket entry dated March 29, 2022, reveals the filing fee has now been paid in full:

15 RECEIPT number#CAE100050269 \$402 fbo Erick E. Rodriguez
16 P66561 by State of California on 3/29/2022.

17 (Docket Entry dated 3/29/2022, Case #1:21-cv-00898-DAD-SKO.)

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 _____
26 ² Plaintiff also asks the Court to reconsider its earlier denial of his application for leave to a proceed *in forma*
27 *pauperis* and references a lack of a response from the Court to his “objection letter.” (Doc. 29 at 1.) The Court did
28 respond to Plaintiff’s objections when it acknowledged receipt and consideration of those same objections in its
Order Adopting Findings and Recommendations dated October 26, 2021. (See Doc. 23 at 1 [“Plaintiff filed
objections on October 19, 2021”], 2 [“Having carefully reviewed the entire file, including plaintiff’s objections ...”].)
Plaintiff’s application was denied by the undersigned magistrate judge and then adopted by assigned District Judge
Dale A. Drozd. The Court’s ruling denying IFP status is now final.

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

III. CONCLUSION AND ORDER

For the reasons set forth above, IT IS ORDERED that:

1. The OSC issued March 14, 2022, is DISCHARGED; and
2. Plaintiff's request for an extension of time within which to pay the filing fee (Doc. 29) is DENIED as MOOT in light of Plaintiff's payment of the filing fee of \$402 in full.

IT IS SO ORDERED.

Dated: March 29, 2022

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE