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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VERNON WAYNE MCNEAL,
Plaintiff,
v.
FLEMING, et al.,
Defendants.

No. 2:02-cv-2524-TLN-CKD

**ORDER DENYING PLAINTIFF'S
MOTION FOR EXPERT WITNESS FEES**

This matter is before the Court pursuant to Plaintiff Vernon McNeal's ("Plaintiff") motion for expert witness fees. (ECF No. 271.) Plaintiff is a pro se prisoner proceeding in forma pauperis. In his motion, Plaintiff alleges that he will be unable to show that Defendants' excessive force caused his alleged injuries without the help of an expert witness. The Court interprets Plaintiff's motion as asking for funds to hire such a witness.

The in forma pauperis statute, 28 U.S.C. § 1915, provides:

(a) Any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees and costs or security therefor, by a person who makes affidavit that he is unable to pay such cost or give security therefor.

....

(c) The officers of the court shall issue and serve all process, and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for

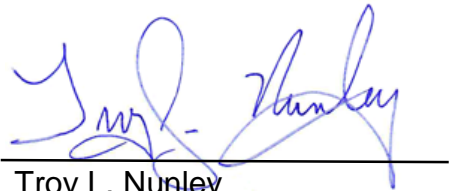
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by law in other cases.

“Although the plain language of section 1915 provides for service of process for an indigent's witnesses, it does not waive payment of fees or expenses for those witnesses.” *Tedder v. Odel*, 890 F.2d 210, 211–12 (9th Cir. 1989). The Supreme Court has stated that “the expenditure of public funds [on behalf of an indigent litigant] is proper only when authorized by Congress...” *United States v. MacCollom*, 426 U.S. 317, 32 (1976). Plaintiff has not provided nor is this Court aware of any congressional order or precedent allowing us to grant Plaintiff’s request. As such, Plaintiff’s request for expert witness fees (ECF No. 271) is hereby DENIED.

IT IS SO ORDERED.

Dated: February 26, 2015



Troy L. Nunley
United States District Judge