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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RONALD REED,	)	Case No. 2:05-CV-00060 JAM-KJN P
	)	
Plaintiff,	)	
	)	<u>ORDER DENYING DEFENDANTS' MOTION</u>
v.	)	<u>FOR ATTORNEYS' FEES AND COSTS</u>
	)	
WILLIE MOORE and TERRY FRATES,	)	
	)	
Defendants.	)	

This matter comes before the Court on Defendants' Terry Frates and Willie Moore, collectively ("Defendants"), Motion for Attorneys' Fees (Doc. #242) and Bill of Costs (Doc. #241). Defendants request \$36,932 in attorneys' fees pursuant to 42 U.S.C. § 1988 and \$4,293.89 in costs pursuant to Fed. R. Civ. P. 54(d)(1) after prevailing in a jury trial against Plaintiff Ronald Reed ("Plaintiff"). Plaintiff is a state prisoner appearing pro se.

I. FACTUAL BACKGROUND

Plaintiff brought a civil rights lawsuit under 42 U.S.C. § 1983 against Defendants. Plaintiff alleged that Defendants

1 subjected Plaintiff to cruel and unusual punishment by placing  
2 him in a cell with an inmate who had mental problems and who had  
3 previously attacked another inmate. Plaintiff alleged that  
4 Defendants refused to move him from the unsafe situation,  
5 despite his requests to move, and, as a result, Plaintiff was  
6 attacked by his cellmate. Plaintiff alleged that the  
7 Defendants' actions resulted in physical injuries to Plaintiff,  
8 as well as emotional and psychological distress.

9 On December 15, 2010 this action proceeded to jury trial.  
10 On December 17, 2010, the jury returned a verdict in Defendants'  
11 favor (Doc. #236).

## 12 13 II. OPINION

### 14 A. Legal Standard

#### 15 1. Attorneys' Fees

16 Attorneys' fees are not awarded to prevailing defendants in  
17 civil rights cases unless the defendants can prove that  
18 plaintiff's action was "unfounded, frivolous, meritless or  
19 vexatious." Christiansburg Garment Co. v. Equal Employment  
20 Opportunity Commission, 434 U.S. 412, 421 (1978) (internal  
21 citations omitted). An unfounded, frivolous, meritless, or  
22 vexatious lawsuit is one where "the result appears obvious or  
23 the arguments are wholly without merit." Galen v. County of Los  
24 Angeles, 477 F.3d 652, 666 (9th Cir. 2007). Courts must "resist  
25 the understandable temptation to engage in post hoc reasoning by  
26 concluding that, because a plaintiff did not ultimately prevail,  
27 his action must have been unreasonable or without foundation."  
28 Christiansburg, 434 U.S. at 421.

1                   2.    Costs

2                   Federal Rule of Civil Procedure § 54(d)(1) provides that  
3 "costs other than attorneys' fees shall be allowed as of course  
4 to the prevailing party unless the court otherwise directs."

5 When considering whether to grant costs to the prevailing party  
6 in a civil rights case, courts should consider the plaintiff's  
7 financial resources and the effect of imposing costs on future  
8 civil rights litigants. Stanley v. University of Southern  
9 California, 178 F.3d 1069, 1079 (9th Cir. 1999).

10                   B.    Claims For Fees

11                   Defendants argue that Plaintiff's claims were frivolous,  
12 meritless, and vexatious and ask the Court to award \$36,932 in  
13 attorneys' fees. While Plaintiff does not directly oppose  
14 Defendants' request for fees, he mentions them in his "Motion For  
15 Transcripts For Equal Protection Litigating Against Defendants' Who  
16 Have the Benefit Of A Complete Copy Of The Transcripts To Litigate  
17 Their Motion For Attorney's Fees And Plaintiff's Motion For New  
18 Trial" (Doc. #244). In the Motion, Plaintiff argues that he needs  
19 a copy of his trial transcript to oppose the fees motion.<sup>1</sup> Since  
20 "[p]ro se complaints and motions from prisoners are to be liberally  
21 construed[,] "U.S. v. Seesing, 234 F.3d 456, 462 (9th Cir. 2001),  
22 the Court construes Plaintiff's Motion as an opposition.

23                   Attorneys' fees are not normally awarded to prevailing  
24 defendants in civil rights cases unless they can prove that the  
25 plaintiff's claims are "groundless, without foundation, frivolous,  
26 or unreasonable." Karam v. City of Burbank, 352 F.3d 1188, 1195  
27 (9th Cir. 2003) (internal citations omitted). In this case,

28 \_\_\_\_\_  
<sup>1</sup>The Court denied Plaintiff's request for a transcript (Doc. #248).

1 Plaintiff's claims survived two Motions to Dismiss and one Motion  
2 for Summary Judgment. This Court also presided over the trial of  
3 this case and is intimately familiar with the facts. Although the  
4 jury returned a verdict against Plaintiff, the Court does not find  
5 that Plaintiff's claims were groundless, without foundation,  
6 frivolous or unreasonable. Moreover, the verdict itself does not  
7 justify an award of attorney's fees to the defendants. See Jensen  
8 v. Stangel, 762 F.2d 815, 818 (9th Cir. 1985). Accordingly, the  
9 Defendants' Motion for Fees is DENIED.

10 C. Claim for Costs

11 Defendants also ask the Court to award \$4,293.89 in costs.  
12 While Plaintiff does not directly oppose the costs, he mentions  
13 them in his "Motion For Transcripts For Equal Protection Litigating  
14 Against Defendants' Who Have the Benefit Of A Complete Copy Of The  
15 Transcripts To Litigate Their Motion For Attorney's Fees And  
16 Plaintiff's Motion For New Trial" (Doc. #244). As with the fees  
17 motion, the Court is liberally construing Plaintiff's Motion as an  
18 opposition to costs.

19 While courts generally award costs to the prevailing party,  
20 they have exercised their discretion to deny costs in civil  
21 rights cases for reasons such as the losing party's limited  
22 financial resources, National Organization for Women v. Bank of  
23 Cal., 680 F.2d 1291, 1294 (9th Cir. 1982); the case addressed  
24 issues of substantial public importance, Association of Mexican-  
25 American Educators v. State of Cal., 231 F.3d 572, 591-93 (9th  
26 Cir. 2000); and the concern of creating a chilling effect on  
27 other future civil rights plaintiffs, Stanley, 178 F.3d at 1079.

28 Here, it is clear that Plaintiff has limited resources.

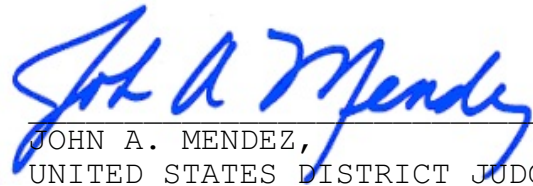
1 While Plaintiff has not specifically pled that he cannot afford  
2 to pay the costs, in his Motion for Appointment of Counsel (Doc.  
3 #19), he avers that he is an indigent prisoner. Thus, it is  
4 highly unlikely that Plaintiff would be able to satisfy any  
5 award of costs. Accordingly, the Court will exercise its  
6 discretion in this case and deny Defendants' request for costs.

7  
8 III. ORDER

9 For the reasons set forth above,  
10 Defendants' Motion for Attorneys' Fees is DENIED. The Court  
11 also declines to award costs to Defendants and against  
12 Plaintiff.

13 IT IS SO ORDERED.

14 Dated: February 17, 2011

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17 JOHN A. MENDEZ,  
18 UNITED STATES DISTRICT JUDGE  
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