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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALBERT CRUZ,

Plaintiff,

No. CIV S-06-1387 DFL EFB P

vs.

UNKNOWN,

Defendant.

ORDER

_____/

Plaintiff is a state prisoner proceeding without counsel in a civil rights action pursuant to 42 U.S.C. § 1983. On June 22, 2006, plaintiff filed a complaint and this action was commenced. On September 26, 2006, the court issued findings and recommendations recommending dismissal of this action for plaintiff's failure to file an application to proceed *in forma pauperis*. On December 5, 2006, plaintiff filed an *in forma pauperis* application. That application was granted in the order filed January 9, 2007. The court's order filed January 10, 2007 directed the California Department of Corrections and Rehabilitation to incrementally collect the fee from plaintiff. Plaintiff then wrote to the court on January 18, 2007, requesting that this action be dismissed.

Pursuant to Fed. R. Civ. P. 41(a), plaintiff's request for voluntary dismissal is self-executing and the dismissal is hereby acknowledged. Plaintiff's letter also requests that court

1 vacate the order directing the CDCR to deduct money for the fee from plaintiff's account.
2 Plaintiff is advised that under the controlling statute the cost imposed is the cost for initiating a
3 civil action. Whether that action is later dismissed has no bearing on the fees imposed. See 28
4 U.S.C. §§1914(a), 1915(a). Plaintiff's request regarding the fee must be denied

5 Accordingly, IT IS HEREBY ORDERED that

- 6 1. The Clerk is directed to close the case.
- 7 2. Plaintiff's request for a court order directing the CDCR not to collect the appropriate
8 fee for initiating this action is denied.

9 DATED: January 23, 2007.

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12 EDMUND F. BRENNAN
13 UNITED STATES MAGISTRATE JUDGE
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