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

CLARENCE A. GIPBSIN,

Plaintiff,

No. CIV S-10-1840 LKK DAD P

vs.

SCOTT KERNAN, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff, a state prisoner proceeding pro se, has filed a motion to voluntarily dismiss this civil rights action. However, in his motion, plaintiff makes clear that his withdrawal of all claims is contingent on the court vacating its order requiring him to pay the filing fee.

Plaintiff is advised that the court will not vacate its order requiring him to pay the filing fee for this case. It is well established that litigant filing fees are part of the cost of litigation. See 28 U.S.C. § 1920. Prisoner cases are no exception. In fact, “[a] congressional objective in enacting the PLRA was to ‘mak[e] all prisoners seeking to bring lawsuits or appeals feel the deterrent effect created by liability for filing fees.’” See Goins v. Decaro, 241 F.3d 260, 261 (2d Cir. 2001). Accordingly, the court will deny plaintiff’s motion to dismiss without prejudice.

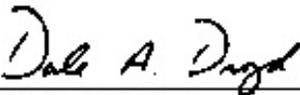
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1 If plaintiff no longer wishes to proceed with this action he may file another  
2 motion to voluntarily dismiss this action. Otherwise, plaintiff will be required to file an amended  
3 complaint in accordance with this court's screening order. Failure to file an amended complaint  
4 or otherwise respond to the court's order will result in a recommendation for dismissal of this  
5 action.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Plaintiff's motion to dismiss (Doc. No. 19) is denied without prejudice; and
- 8 2. Within thirty days of the date of service of this order, plaintiff shall file an  
9 amended complaint. Failure to file an amended complaint or otherwise respond to this order will  
10 result in a recommendation for dismissal of this action.

11 DATED: August 3, 2011.

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15 DALE A. DROZD  
16 UNITED STATES MAGISTRATE JUDGE

14 DAD:9  
15 gipb1840.mtd