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

VIRGIL ROBERT ELBERT,

Plaintiff,

No. CIV S-11-1154 GEB EFB P

vs.

GARY SWARTHOUT, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel and in forma pauperis in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Pursuant to 28 U.S.C. § 1915(b)(1), plaintiff must pay the \$350 filing fee required by 28 U.S.C. § 1914(a). Plaintiff is assessed an initial partial filing fee of 20 percent of the greater of (a) the average monthly deposits to plaintiff’s trust account; or (b) the average monthly balance in plaintiff’s account for the six-month period immediately preceding the filing of the complaint. 28 U.S.C. § 1915(b)(1). Thereafter, plaintiff must make monthly payments of 20 percent of the preceding month’s income credited to his trust account. 28 U.S.C. § 1915(b)(2).

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1 The agency having custody of plaintiff is required to forward to the Clerk of the Court
2 the initial partial filing fee, if funds exist, as well as payments from plaintiff's account each time
3 the amount in the account exceeds \$10, until the filing fee is paid. *Id.*

4 The Clerk of the Court shall serve a copy of this order and a copy of plaintiff's in forma
5 pauperis application upon the Director of the California Department of Corrections and
6 Rehabilitation and deliver a copy of this order to the Clerk's financial division.

7 So ordered.

8 Dated: June 6, 2011.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE