

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WONDIYRAD KABEDE,
Plaintiff,
v.
GARY BROWN, et al.,
Defendants.

No. 2:16-cv-1765 JAM DB P

ORDER

Plaintiff is a state prisoner who was proceeding pro se and in forma pauperis with a civil rights action under 42 U.S.C. § 1983. Plaintiff filed a complaint in July 2016 in which he alleged Eighth Amendment and First Amendment claims. Upon screening, the court found plaintiff failed to state a cognizable claim for relief under § 1983, gave plaintiff leave to file an amended complaint, granted plaintiff's motion to proceed in forma pauperis, and ordered the prison to collect payments from plaintiff's trust account. (ECF Nos. 9, 10.)

After plaintiff was given many opportunities to file an amended complaint (see ECF Nos. 13, 14, 15), plaintiff made a motion, filed here on June 15, 2017, to voluntarily dismiss this case (ECF No. 16). The court granted that motion and on September 29, 2017, this case was closed. (ECF Nos. 18, 19.)


In a document filed here on November 29, 2017, plaintiff moves to vacate the court's order directing the prison to collect payment for the filing fee in this case. (ECF No. 20.) Plaintiff

1 states that he voluntarily dismissed this case and another case in this district and that a case he
2 filed in the Fresno division of this court was dismissed by the judge. He is concerned that paying
3 these filing fees affects his ability to purchase toiletries and other items.

4 Plaintiff is advised that when he files a federal civil rights action, he remains liable for full
5 payment of the filing fee regardless of the outcome of the action. See 28 U.S.C. §
6 1915(b)(1)&(2); Antonetti v. Foster, No. 3:14-cv-495-JAD-VPC, at *3 (D. Nev. Oct. 22, 2015)
7 (“Plaintiff will . . . be required to make monthly payments toward the full \$350 filing fee when he
8 has funds available, even though this case is being dismissed.”); Turner v. San Diego County, No.
9 14cv1965 LAB (WVG), 2014 WL 5800595, at *1 (S.D. Cal. Nov. 7, 2014) (same); Mercier v.
10 FBI, No. CV07-281-S-EJL, 2008 WL 360843, at *2 (D. Id. Feb. 8, 2008) (same).

11 Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion (ECF No. 20) is denied.

12 Dated: December 3, 2017

13
14
15 
16 DEBORAH BARNES
17 UNITED STATES MAGISTRATE JUDGE
18

19 DLB:9
20 DLB1/prisoner-civil rights/kabe1765.fee
21
22
23
24
25
26
27
28