

1 On October 5, 2020, plaintiff filed a motion objecting to the manner in which money has
2 been deducted from his trust account. On July 14, 2020, then again on October 18, 2020,
3 plaintiff's trust account was credited with \$100. ECF No. 36 at 6. The parties agree that on both
4 occasions, calculations were made as to which portion of those deposits would be deducted from
5 plaintiff's account and ultimately sent to the court pursuant to the court's collection order, and
6 then a hold was placed on plaintiff's account for those amounts. As to the July deposit, it was
7 determined that \$10.21 would be deducted and sent to the court. Id. As for the October deposit,
8 it was determined that \$10.05 would be deducted and sent to the court. Id. The trust account
9 statement provided by plaintiff indicates the amounts were not actually deducted from plaintiff's
10 account until the first day of the following month (i.e. August 1st and October 1st respectively).
11 Id. Plaintiff alleges the practice of placing a hold on plaintiff's account until the first day of the
12 next month violates the terms of the court's April 24, 2018 collection order. The court disagrees.

13 Essentially, prison officials collected amounts due for the filing fee on or near the days
14 \$100 was deposited into plaintiff's account. Under the terms of the court's collection order, there
15 is no set day of the month upon which collection should be made. However, the calculation upon
16 which the amount to be collected is determined and actual collection can occur no more than once
17 per month. Again, it appears the calculation as to how much would be collected and at least
18 constructive collection occurred shortly after money was deposited into plaintiff's account on
19 July 14, 2020 and then again on October 18, 2020. Since, the calculations and collections were
20 more than a month apart, there is no violation of the court's April 24, 2018 order.

21 Plaintiff has filed a motion asking that the court sanction Warden J. Gastelo for not filing
22 an adequate response to the court's November 3, 2020 order in which the court asked the Warden
23 "whether a hold was placed on plaintiff's inmate trust account on July 21, 2020 so funds would
24 be available to send to this court on August 1, 2020 in partial satisfaction of the filing fee due in
25 this action." The court finds that the Warden's response (ECF No. 35), when considered with
26 counsel for defendants' clarification of the response (ECF No. 37) amounts to an affirmative

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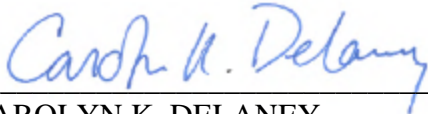
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1 response to the court's inquiry. Since the court's question has been adequately answered,
2 sanctions are not warranted.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. Plaintiff's October 5, 2020 "motion for court order" is denied; and
- 5 2. Plaintiff's December 7, 2020 motion for sanctions is denied.

6 Dated: February 10, 2021

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9 CAROLYN K. DELANEY
10 UNITED STATES MAGISTRATE JUDGE

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