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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TUANJA EDWARD ANDERSON,
Plaintiff,
v.
C. ROSE, et al.,
Defendants.

No. 2:18-cv-1216 JAM KJN P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding without counsel. On October 4, 2019, the district court revoked plaintiff's in forma pauperis status and ordered plaintiff to pay the \$400.00 filing fee within 21 days. Such deadline has now passed, and plaintiff has not paid the filing fee. Therefore, this action should be dismissed based on plaintiff's failure to comply with the court's order. Fed. R. Civ. P. 41(b).

On October 17, 2019, plaintiff filed a request that he not be charged for the court's filing fee in light of the district court's order revoking plaintiff's in forma pauperis status, and seeks a refund of the \$5.00 paid to date.

All parties instituting any civil action, suit or proceeding in a district court of the United States, except an application for writ of habeas corpus, are required to pay a filing fee of \$400.¹

¹ In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of \$50. See 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee

1 See 28 U.S.C. § 1914(a). The action may proceed despite a plaintiff's failure to prepay the entire
2 fee only if he is granted leave to proceed in forma pauperis under 28 U.S.C. § 1915(a). See
3 Andrews v. Cervantes, 493 F.3d 1047, 1051 (9th Cir. 2007); Rodriguez v. Cook, 169 F.3d 1176,
4 1177 (9th Cir. 1999). However, a prisoner granted leave to proceed in forma pauperis remains
5 obligated to pay the entire fee in "increments" or "installments." Bruce v. Samuels, 136 S. Ct.
6 627, 629 (2016); Williams v. Paramo, 775 F.3d 1182, 1185 (9th Cir. 2015). Such obligation
7 remains, regardless of whether his action is ultimately dismissed. See 28 U.S.C. § 1915(b)(1) &
8 (2); Taylor v. Delatoore, 281 F.3d 844, 847 (9th Cir. 2002).

9 Because payment of the court's filing fee is required, the court does not have authority to
10 waive or refund the filing fee in this case. Thus, plaintiff's request (ECF No. 52) is denied.


11 Accordingly, IT IS HEREBY ORDERED that plaintiff's request (ECF No. 52) is denied.

12 Further, IT IS RECOMMENDED that:

- 13 1. This action be dismissed without prejudice; and
- 14 2. The Clerk of the Court be directed to terminate all pending motions and close this case.

15 These findings and recommendations are submitted to the United States District Judge
16 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
17 after being served with these findings and recommendations, any party may file written
18 objections with the court and serve a copy on all parties. Such a document should be captioned
19 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
20 objections shall be filed and served within fourteen days after service of the objections. The
21 parties are advised that failure to file objections within the specified time may waive the right to
22 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

23 Dated: November 15, 2019

24 
25 _____
26 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

26 /ande1216.fpf

27 _____
28 Schedule, § 14 (eff. June 1, 2016)). The additional \$50 administrative fee does not apply to
persons granted leave to proceed in forma pauperis. Id.