FORREST KENDRID,

v.

N. AGUILERA,

Plaintiff.

Defendants.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

No. 2:18-cv-1612 AC P

ORDER

140. 2.10 CV 1012 /1C 1

Plaintiff is a civil commitment detainee proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. By order filed July 9, 2018, plaintiff was ordered to either file an application to proceed in forma pauperis or pay the filing fee. ECF No. 4. Plaintiff has filed a motion for reconsideration of the order, requesting that he be permitted to proceed without being subject to an initial partial fee and installment payments because he is not a prisoner and therefore is not subject to the requirements of the Prison Litigation Reform Act (PLRA). ECF No. 5.

Plaintiff is correct that as a civil commitment detainee he is not a prisoner as defined by the PLRA. The order directing plaintiff to file an application or pay the fee included afootnote that incorrectly advised that he will still be required to pay the filing fee in installments even if his request to proceed in forma pauperis is granted. ECF No. 4 at 1 n.1. The motion for reconsideration will therefore be granted and the footnote in the July 9, 2018 order will be disregarded. If plaintiff is granted leave to proceed in forma pauperis, the filing fee will be

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waived. However, plaintiff is still required to submit an application to proceed in forma pauperis before his request can be granted because the application provides the court with the information necessary to determine his eligibility. To date, he has not provided the required application.

Accordingly, IT IS HEREBY ORDERED that:

- 1. Plaintiff's motion for reconsideration (ECF No. 5) is granted and, if plaintiff is granted leave to proceed in forma pauperis, the filing fee will be waived.
- 2. Within thirty days of service of this order, plaintiff must submit an application in support of his request to proceed in forma pauperis on the form provided by the Clerk of the Court.
- 3. The Clerk of the Court is directed to send plaintiff a new non-prisoner Application to Proceed In Forma Pauperis.

DATED: July 25, 2018.

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE