UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

David Hamilton, Plaintiff, v. Sam Wong, et. al., Defendant.	No. 2:19-cv-01181-KJM-EFB ORDER

Plaintiff, a state prisoner proceeding pro se, filed this civil rights action seeking relief under 42 U.S.C. § 1983. Second Am. Compl., ECF No. 15. On June 22, 2020, the court dismissed this action for failure to state a claim upon which relief may be granted. Prior Order, ECF No. 20. The Ninth Circuit affirmed the court's dismissal. *See* USCA Mandate, ECF No. 28.

Plaintiff has filed a motion entitled "Notice of Motion for Modification of Sentence to Vacate Judgement of Court-Imposed Costs (Fines and Restitution) (Pen. Code § 1465.9)." Mot. at 1, ECF No. 29 (emphasis omitted). Plaintiff argues California Penal Code section 1465.9 has been amended to render court-imposed costs "unenforceable and uncollectible." *Id.* at 3. Therefore, he requests all court-imposed costs to be vacated. *Id.* at 6.[1]

[1] In the motion, plaintiff identifies himself as the defendant, *see e.g.*, *id.* at 1, 6, and appears to use a boilerplate form created for defendants requesting relief in state court, as the heading includes "People of the State of California," *id.* at 1.

California Penal Code section 1465.9 provides the balance of any court-imposed costs and civil assessments "pursuant to" other provisions of the Code are unenforceable and uncollectible. *See* Cal. Penal Code § 1465.9. This statute has no bearing on whether a federal court may collect the filing fee associated with the filing of a civil complaint. 28 U.S.C. § 1914(a) ("The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of $350[.]"); *cf. Olivares v. Marshall*, 59 F.3d 109, 111 (9th Cir. 1995) ("Courts have discretion to impose partial filing fees under the in forma pauperis statute."); 28 U.S.C. § 1915 (proceedings in forma pauperis). Therefore, the motion is **denied.**

This order resolves ECF No. 29.

IT IS SO ORDERED.

DATED: May 8, 2024.

CHIEF UNITED STATES DISTRICT JUDGE