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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

QUINTIN R. CROSS,

 Plaintiff,

 v.

T. MEZA, et al.,

 Defendants.

No. 2:19-cv-2416 AC P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff, a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983, has requested a refund of the filing fee in this case. ECF No. 10. Plaintiff states that he voluntarily dismissed this case but the court kept his filing fee. Id.

Plaintiff was granted leave to proceed in forma pauperis in this case, ECF No. 7, and has not voluntarily dismissed this case. It appears he has mistaken this case for Cross v. Newsom, No. 2:19-cv-2462 WBS CKD, in which he did pay the filing fee and later filed a voluntary dismissal. However, it has come to the court’s attention that plaintiff’s request to proceed in forma pauperis was granted in error. Plaintiff’s prisoner trust account statement reflects a balance of \$14,509.70, ECF No. 4, and plaintiff has therefore made an inadequate showing of indigency in the application which was before the court.

Accordingly, IT IS HEREBY ORDERED that:

- 1. Plaintiff’s motion to refund the filing fee, ECF No. 10, is DENIED.

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2. The order granting plaintiff leave to proceed in forma pauperis, ECF No. 7, is VACATED.

3. The Clerk of the Court shall randomly assign a United States District Judge to this action.

IT IS FURTHER RECOMMENDED that:

- 1. Plaintiff's motion for leave to proceed in forma pauperis, ECF No. 2, be DENIED.
- 2. Plaintiff be given thirty days to pay the filing fee or face dismissal of the case.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, plaintiff may file written objections with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: June 4, 2021


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE