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3 IN THE UNITED STATES DISTRICT COURT  
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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7 STEPHEN B. TURNER,

No. 11-cv-5176 CRB

8 Plaintiff,

**ORDER DENYING COSTS**

9 v.

10 MELODY SMITH, ET AL.,

11 Defendants.

12  
13 After prevailing on summary judgment, Defendants have moved under Federal Rule  
14 of Civil Procedure 54(d)(1) to recover \$1,840.20 in costs from Plaintiff. That provision  
15 creates a presumption in favor of awarding costs to the prevailing party but vests the Court  
16 with discretion not to. See Ass'n of Mexican-American Educators v. California, 231 F.3d  
17 572, 592 (9th Cir. 2000). To exercise that discretion, there must be particular circumstances  
18 indicating that “it would be inappropriate or inequitable to award costs.” Id. at 593.

19 Those circumstances exist here. Plaintiff is indigent and homeless, which counsels  
20 strongly against awarding costs. See Escriba v. Foster Poultry Farms, Inc., 743 F.3d 1236,  
21 1248 (9th Cir. 2014); Draper v. Rosario, 836 F.3d 1072, 1088 (9th Cir. 2016). And although  
22 this was not the closest of cases, the Court is loath to risk chilling future actions brought by  
23 civil-rights plaintiffs. See Stanley v. Univ. of S. Cal., 178 F.3d 1069, 1080 (9th Cir. 1999).  
24 The Court therefore DENIES the motion to recover costs.

25 **IT IS SO ORDERED.**

26 Dated: May 31, 2017

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28 CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE