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6 UNITED STATES DISTRICT COURT
7 SOUTHERN DISTRICT OF CALIFORNIA
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9 FREDDIE HUGHEY,
10 CDCR #E-95781,

11 Plaintiff,

12 vs.

13 SCOTT KERNAN, Secretary at CDCR,
14 Defendant.
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Case No.: 18-cv-313-WQH-BGS

ORDER

16 HAYES, Judge:

17 On April 15, 2022, Plaintiff Freddie Hughey, proceeding pro se and incarcerated at
18 Richard J. Donovan Correctional Facility in San Diego, California, filed a letter requesting
19 that the Court “remove” from his prison trust account the \$350 filing fee related to the
20 above-captioned action and a \$10,000 restitution fine imposed by a California state court.
21 (ECF No. 17 at 2). As the Court explained in the May 21, 2018 Order granting Plaintiff’s
22 Motion to Proceed *In Forma Pauperis*, the \$350 filing fee required by 28 U.S.C. § 1914 is
23 required to be paid pursuant to the payment provisions set forth in 28 U.S.C. § 1915(b)(1).
24 (ECF No. 4 at 2-3). Section 1915(b) does not grant a court discretion to “remove” the filing
25 fee from a prison trust account. *See* 28 U.S.C. § 1915(b)(1) (“[I]f a prisoner brings a civil
26 action or files an appeal in forma pauperis, the prisoner *shall* be required to pay the full
27 amount of a filing fee.”) (emphasis added); *see also Taylor v. Delatoore*, 281 F.3d 844,
28 851 (9th Cir. 2002) (holding that § 1915(b) is constitutional).

1 Similarly, this Court has no authority to “remove” the \$10,000 restitution fine
2 imposed by the California state court. In his Complaint filed in this Court, Plaintiff claimed
3 that he was entitled to early parole consideration and did not seek any relief related to the
4 \$10,000 restitution fine. On March 5, 2019, Judgment was entered in favor of Defendant
5 in this case and, accordingly, the time for Plaintiff to amend his pleadings to add a claim
6 related to the restitution fine has expired. If Plaintiff wishes to challenge or otherwise
7 “remove” the fine, he must file a new action in the appropriate court.

8 IT IS HEREBY ORDERED that Plaintiff’s request to remove the \$350 filing fee and
9 \$10,000 restitution fine from his prison trust account is denied. This case remains closed.

10 Dated: May 9, 2022


11 Hon. William Q. Hayes
12 United States District Court