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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILSON EARL LOVE,)	Case No. 2:17-cv-01317-RFB-CWH
)	
Plaintiff,)	
)	
v.)	
)	
STATE OF NEVADA,)	ORDER
)	
Defendant.)	
)	

Presently before the Court is Plaintiff’s motion to join (ECF No. 9), filed on June 19, 2017. Also before the Court are Plaintiff’s motion for the U.S. Marshal to serve summons and complaint (ECF No. 15), filed on August 15, 2017, and Plaintiff’s motion for refund of fee (ECF No. 16), filed on February 9, 2018.

On July 11, 2017, this Court entered a report and recommendation (ECF No. 12) that this case be dismissed for failure to pay the filing fee. On July 25, 2017, pro se Plaintiff Wilson Earl Love filed an objection to that order (ECF No. 13), asking for additional time to pay the filing fee. Plaintiff then paid the filing fee on August 15, 2017. ECF No. 14-1. In light of Plaintiff’s objection and remittance of the filing fee, the Court will vacate the report and recommendation.

I. Motion to Join

Plaintiff moves the Court to join new parties to this case as defendants, specifically the City of Las Vegas and Clark County Municipal Court. Plaintiff does not cite any authority that would allow the Court to add new parties to his existing complaint. However, Federal Rule of Civil Procedure 15(1)(A) allows a party to amend its pleading once as a matter of course within 21 days after service on defendants. The Court will therefore construe Plaintiff’s motion to join as a motion to amend his complaint. Here, it does not appear that any defendant has been served. The Court will therefore grant the motion to amend.

II. Motion for Service

Plaintiff also moves the Court to order the U.S. Marshal to serve a summons and a copy of

1 his complaint on defendants. Under Federal Rule of Civil Procedure 4(c)(3), a party proceeding *in*
2 *forma pauperis* is entitled to have the summons and complaint served by the U.S. Marshal. *Puett v.*
3 *Blandford*, 912 F.2d 270, 273 (9th Cir. 1990). However, Plaintiff is not proceeding *in forma*
4 *pauperis* in this case, and does not cite to any authority that would allow this Court to order service
5 by the Marshal without an approved application to proceed *in forma pauperis*, or suggest any good
6 cause for doing so. Under Local Rule 7-2(d), the failure of a moving party to file points and
7 authorities in support of a motion constitutes a consent to the denial of the motion. The Court will
8 therefore deny Plaintiff's motion for service. Plaintiff is advised he is responsible for effecting
9 service on defendants in compliance with Federal Rule of Civil Procedure 4.

10 **III. Motion for Refund of Fee**

11 Finally, Plaintiff moves for a refund of the filing fee in this case. It is unclear on what
12 grounds Plaintiff is requesting a refund. However, filing fees for initiating a lawsuit in district court
13 are authorized by 28 U.S.C. § 1914 and are part of the costs of litigation. The Court is not aware of
14 any provision for refunds of the filing fee, nor does Plaintiff provide any. Under Local Rule 7-2(d),
15 the failure of a moving party to file points and authorities in support of a motion constitutes a
16 consent to the denial of the motion. The Court will therefore deny Plaintiff's motion for a refund.

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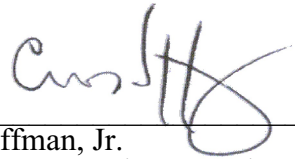
1 IT IS THEREFORE ORDERED that the Court's Report and Recommendation (ECF No. 12)
2 is VACATED.

3 IT IS FURTHER ORDERED that Plaintiff's motion to join (ECF No. 9) is GRANTED.
4 Plaintiff may file an amended complaint within thirty days of the date of this order. Plaintiff is
5 advised that if he files an amended complaint, the original complaint (ECF No. 14) no longer serves
6 any function in this case. As such, the amended complaint must be complete in and of itself without
7 reference to prior pleadings or other documents. The court cannot refer to a prior pleading or other
8 documents to make Plaintiff's amended complaint complete.

9 IT IS FURTHER ORDERED that Plaintiff's motion for service (ECF No. 15) is DENIED.

10 IT IS FURTHER ORDERED that Plaintiff's motion for refund (ECF No. 16) is DENIED.

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12 DATED: March 1, 2018

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16 C.W. Hoffman, Jr.
17 United States Magistrate Judge
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