

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

<p>VICTOR POLANCO-CABRERA,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>UNITED STATES OF AMERICA, et al.,</p> <p style="text-align: center;">Defendants.</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>Civ. No. 15-6357 (RBK) (KMW)</p> <p>OPINION</p>
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ROBERT B. KUGLER, U.S.D.J.

I. INTRODUCTION

Plaintiff is a federal prisoner currently incarcerated at F.C.I. Fort Dix in Fort Dix, New Jersey. He is proceeding *pro se* with a civil rights complaint filed pursuant to *Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). Previously, this matter was transferred to the United States District Court for the Middle District of Florida and closed in this Court. Presently pending before this Court is plaintiff's motion for a writ of mandamus. (*See* Dkt. No. 11) Accordingly, this Court will reopen this action so that petitioner's motion can be ruled upon. For the following reasons, the motion for writ of mandamus will be denied.

II. BACKGROUND

On October 13, 2015, this Court granted plaintiff's application to proceed *in forma pauperis* in this case. This action was then transferred to the Middle District of Florida because the defendants named resided in the Middle District of Florida and the events giving rise to his allegations in the complaint also took place in the Middle District of Florida. There were no allegations in the complaint (besides plaintiff's currently place of incarceration) that took place in New Jersey. Accordingly, the matter was transferred.

Several months later, this Court received a motion for writ of mandamus from plaintiff. In that motion, he indicates that he is improperly being charged a filing fee by both this Court and the Middle District of Florida for the same proceeding. Thus, according to plaintiff, he is currently paying filing fees for one civil action, in two courts. He requests this Court order the Federal Bureau of Prisons to discontinue garnishment from his institutional pay.

III. DISCUSSION

Under 28 U.S.C. § 1361, a district court has “jurisdiction over a mandamus action to compel an employee of the United States to perform a duty owed to the plaintiff.” *Taylor v. Hayman*, 435 F. App’x 62, 63 (3d Cir. 2011). In this case, plaintiff asserts that the duty that is owed to him is to not be charged by both this Court and the Middle District of Florida for the same filing fee.

Petitioner is incorrect in asserting that he is being charged twice for the same filing fee by this Court and the Middle District of Florida. Prior to this Court transferring this action to the Middle District of Florida, plaintiff had a pending civil action in the Middle District of Florida. (See M.D. Fl. Civ. No. 15-0388) The Middle District of Florida granted plaintiff’s application to proceed *in forma pauperis* in that case on September 22, 2015. (See M.D. Fl. Civ. No. 15-0388 Dkt. No. 6) The case inquiry report from the Middle District of Florida in Civ. No. 15-0388, which is attached to this Opinion, indicates that plaintiff has been making payments to that Court on that civil action number. Plaintiff’s payments to the Middle District of Florida relate to that case, not the case that was transferred to the Middle District of Florida by this Court docketed at M.D. Fl. Civ. No. 15-0539.¹ Furthermore, this Court has confirmed with the Middle District of

¹ This Court has also attached the case inquiry report from the case (D.N.J. Civ. No. 15-6357) that plaintiff filed in this district to show the payments plaintiff has made so far on the filing fee in this case.

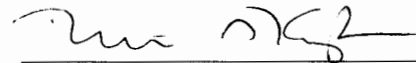
Florida Clerk's Office that it has not received any payments from plaintiff for the case that was transferred to that district from this Court in M.D. Fl. Civ. No. 15-0539.

Plaintiff's fundamental premise that he is being charged two filing fees for the same case is incorrect. He is not entitled to mandamus relief.

IV. CONCLUSION

For the foregoing reasons, plaintiff's motion for writ of mandamus (Dkt. No. 11) is denied. An appropriate order will be entered.

DATED: 10-24-2014



ROBERT B. KUGLER
United States District Judge

U.S. Courts
Case Inquiry Report
Case Num: DFLM515CV000388; Party Num: N/A; Payee Code: N/A
Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y

Case Number DFLM515CV000388 Case Title POLANCO-CABRERA VS USA ET AL

Summary Party Information:

Party#	Party Code	Party Name	Account Code	Debt Type	JS Account #	Total Owed	Total Collected	Total Outstanding
001	PAR15571	VICTOR POLANCO-CABRERA	PCCA9942	PLRA FILING FEE		190.00	190.00	0.00
001	PAR15571	VICTOR POLANCO-CABRERA	PCCA9942	PLRA FILING FEE		60.00	60.00	0.00
001	PAR15571	VICTOR POLANCO-CABRERA	PCCA9942	PLRA FILING FEE 086400		100.00	61.58	38.42
						<u>350.00</u>	<u>311.58</u>	<u>38.42</u>

Registry Information:

Depository Code	Depository Name	Account Type	Account Number	Depository Total
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U.S. Courts
Case Inquiry Report
Case Num: DFLM515CV000388; Party Num: N/A; Payee Code: N/A
Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y

Detailed Party Information:

Party #	Party Code	Party Name
001	PAR15571	VICTOR POLANCO-CABRERA

Debt Type				
PLRA FILING FEE				
	Principal	Interest	Penalty	Total
Fund	5100PL			N/A
Owed	190.00	0.00	0.00	190.00
Collected	190.00	0.00	0.00	190.00
Outstanding	0.00	0.00	0.00	0.00
Apportioned	0.00	0.00	N/A	0.00
Paid	0.00	0.00	N/A	0.00
Refunded	0.00	0.00	N/A	0.00
Available	190.00	0.00	N/A	190.00

PLRA FILING FEE				
	Principal	Interest	Penalty	Total
Fund	0869PL			N/A
Owed	60.00	0.00	0.00	60.00
Collected	60.00	0.00	0.00	60.00
Outstanding	0.00	0.00	0.00	0.00
Apportioned	0.00	0.00	N/A	0.00
Paid	0.00	0.00	N/A	0.00
Refunded	0.00	0.00	N/A	0.00
Available	60.00	0.00	N/A	60.00

PLRA FILING FEE 086400				
	Principal	Interest	Penalty	Total
Fund	086400			N/A
Owed	100.00	0.00	0.00	100.00
Collected	61.58	0.00	0.00	61.58
Outstanding	38.42	0.00	0.00	38.42
Apportioned	0.00	0.00	N/A	0.00
Paid	0.00	0.00	N/A	0.00
Refunded	0.00	0.00	N/A	0.00

U.S. Courts
Case Inquiry Report
Case Num: DFLM515CV000388; Party Num: N/A; Payee Code: N/A
Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y

Available	61.58	0.00	N/A	61.58
Totals				
	Principal	Interest	Penalty	Total
Owed	350.00	0.00	0.00	350.00
Collected	311.58	0.00	0.00	311.58
Outstanding	38.42	0.00	0.00	38.42
Apportioned	0.00	0.00	N/A	0.00
Paid	0.00	0.00	N/A	0.00
Refunded	0.00	0.00	N/A	0.00
Available	311.58	0.00	N/A	311.58

**U.S. Courts
Case Inquiry Report**
Case Num: DFLM515CV000388; Party Num: N/A; Payee Code: N/A
Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y

Transaction Information:

Document Type/Number*	Debt Type	Document Date	Accomplished Date	Line Type	Amount	Party/Payee Name	Doc Actn	Trans Type	Fund
Account Number	Debt Line#	Debt Type			Payee Line#	Depository Line#	J/S Account Code		
CT OCA006359 DFLM515CV000388-001	1	10/23/2015 PLRA FILING FEE	10/23/2015	PR	18.04	VICTOR POLANCO-CABRERA	O	04	5100PL
CT OCA006429 DFLM515CV000388-001	1	11/10/2015 PLRA FILING FEE	11/10/2015	PR	1.36	VICTOR POLANCO-CABRERA	O	04	5100PL
CT OCA006509 DFLM515CV000388-001	1	12/09/2015 PLRA FILING FEE	12/09/2015	PR	5.56	VICTOR POLANCO-CABRERA	O	04	5100PL
CT OCA006583 DFLM515CV000388-001	1	01/11/2016 PLRA FILING FEE	01/11/2016	PR	19.97	VICTOR POLANCO-CABRERA	O	04	5100PL
CT OCA006662 DFLM515CV000388-001	1	02/08/2016 PLRA FILING FEE	02/08/2016	PR	27.02	VICTOR POLANCO-CABRERA	O	04	5100PL
CT OCA006758 DFLM515CV000388-001	1	03/07/2016 PLRA FILING FEE	03/07/2016	PR	15.62	VICTOR POLANCO-CABRERA	O	04	5100PL
CT OCA006859 DFLM515CV000388-001	1	04/08/2016 PLRA FILING FEE	04/08/2016	PR	45.70	VICTOR POLANCO-CABRERA	O	04	5100PL
CT OCA006975 DFLM515CV000388-001	1	05/09/2016 PLRA FILING FEE	05/09/2016	PR	28.39	VICTOR POLANCO-CABRERA	O	04	5100PL
CT OCA007059 DFLM515CV000388-001	2	06/06/2016 PLRA FILING FEE	06/06/2016	PR	3.51	VICTOR POLANCO-CABRERA	O	04	0869PL
CT OCA007059 DFLM515CV000388-001	1	06/06/2016 PLRA FILING FEE	06/06/2016	PR	28.34	VICTOR POLANCO-CABRERA	O	04	5100PL
CT OCA007221 DFLM515CV000388-001	2	07/12/2016 PLRA FILING FEE	07/12/2016	PR	36.02	VICTOR POLANCO-CABRERA	O	04	0869PL
CT OCA007304 DFLM515CV000388-001	2	08/08/2016 PLRA FILING FEE	08/08/2016	PR	20.18	VICTOR POLANCO-CABRERA	O	04	0869PL
CT OCA007404 DFLM515CV000388-001	2	09/12/2016 PLRA FILING FEE	09/12/2016	PR	0.29	VICTOR POLANCO-CABRERA	O	04	0869PL
CT OCA007404 DFLM515CV000388-001	3	09/12/2016 PLRA FILING FEE 086400	09/12/2016	PR	27.72	VICTOR POLANCO-CABRERA	O	04	086400
CT OCA007497 DFLM515CV000388-001	3	10/11/2016 PLRA FILING FEE 086400	10/11/2016	PR	33.86	VICTOR POLANCO-CABRERA	O	04	086400

U.S. Courts

Case Inquiry Report

**Case Num: DFLM515CV000388; Party Num: N/A; Payee Code: N/A
Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y**

*** Document Type Legend**

Document Type

CT

Document Type Name

Cash Receipt - CCA Automated

U.S. Courts
Case Inquiry Report
Case Num: DNJX115CV006357; Party Num: N/A; Payee Code: N/A
Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y

Case Number DNJX115CV006357 Case Title POLANCO CABRERA V USA

Summary Party Information:

Party#	Party Code	Party Name	Account Code	Debt Type	JS Account #	Total Owed	Total Collected	Total Outstanding
001	PAR10452	VICTOR POLANCO CABRERA	PCCA6412	PLRA FILING FEE		60.00	20.92	39.08
001	PAR10452	VICTOR POLANCO CABRERA	PCCA6412	PLRA FILING FEE 086400		100.00	0.00	100.00
001	PAR10452	VICTOR POLANCO CABRERA	PCCA6412	PLRA FILING FEE		190.00	190.00	0.00
						<u>350.00</u>	<u>210.92</u>	<u>139.08</u>

Registry Information:

Depository Code	Depository Name	Account Type	Account Number	Depository Total
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**U.S. Courts
Case Inquiry Report
Case Num: DNJX115CV006357; Party Num: N/A; Payee Code: N/A
Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y**

Detailed Party Information:

Party #	Party Code	Party Name
001	PAR10452	VICTOR POLANCO CABRERA

Debt Type				
PLRA FILING FEE				
	Principal	Interest	Penalty	Total
Fund	0869PL			N/A
Owed	60.00	0.00	0.00	60.00
Collected	20.92	0.00	0.00	20.92
Outstanding	39.08	0.00	0.00	39.08
Apportioned	0.00	0.00	N/A	0.00
Paid	0.00	0.00	N/A	0.00
Refunded	0.00	0.00	N/A	0.00
Available	20.92	0.00	N/A	20.92

PLRA FILING FEE 086400				
	Principal	Interest	Penalty	Total
Fund	086400			N/A
Owed	100.00	0.00	0.00	100.00
Collected	0.00	0.00	0.00	0.00
Outstanding	100.00	0.00	0.00	100.00
Apportioned	0.00	0.00	N/A	0.00
Paid	0.00	0.00	N/A	0.00
Refunded	0.00	0.00	N/A	0.00
Available	0.00	0.00	N/A	0.00

PLRA FILING FEE				
	Principal	Interest	Penalty	Total
Fund	5100PL			N/A
Owed	190.00	0.00	0.00	190.00
Collected	190.00	0.00	0.00	190.00
Outstanding	0.00	0.00	0.00	0.00
Apportioned	0.00	0.00	N/A	0.00
Paid	0.00	0.00	N/A	0.00
Refunded	0.00	0.00	N/A	0.00

**U.S. Courts
Case Inquiry Report**
Case Num: DNJX115CV006357; Party Num: N/A; Payee Code: N/A
Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y

Available	190.00	0.00	N/A	190.00
Totals				
	Principal	Interest	Penalty	Total
Owed	350.00	0.00	0.00	350.00
Collected	210.92	0.00	0.00	210.92
Outstanding	139.08	0.00	0.00	139.08
Apportioned	0.00	0.00	N/A	0.00
Paid	0.00	0.00	N/A	0.00
Refunded	0.00	0.00	N/A	0.00
Available	210.92	0.00	N/A	210.92

**U.S. Courts
Case Inquiry Report**
Case Num: DNJX115CV006357; Party Num: N/A; Payee Code: N/A
Show Party Details: Y; Show Payee Details: Y; Show Transactions: Y

Transaction Information:

Document Type/Number*	Debt Type Line#	Document Date	Accomplished Date	Line Type	Amount	Party/Payee Name	Doc Actn	Trans Type	Fund
Account Number	Debt Type	Payee Line#	Depository Line#	J/S Account Code					
CT CAM007419 DNJX115CV006357-001	3	12/14/2015 PLRA FILING FEE	12/14/2015	PR	15.85	VICTOR POLANCO CABRERA	O	04	5100PL
CT CAM007480 DNJX115CV006357-001	3	01/11/2016 PLRA FILING FEE	01/11/2016	PR	10.76	VICTOR POLANCO CABRERA	O	04	5100PL
CT CAM007565 DNJX115CV006357-001	3	02/09/2016 PLRA FILING FEE	02/09/2016	PR	18.00	VICTOR POLANCO CABRERA	O	04	5100PL
CT CAM007642 DNJX115CV006357-001	3	03/08/2016 PLRA FILING FEE	03/08/2016	PR	6.14	VICTOR POLANCO CABRERA	O	04	5100PL
CT CAM007720 DNJX115CV006357-001	3	04/11/2016 PLRA FILING FEE	04/11/2016	PR	36.73	VICTOR POLANCO CABRERA	O	04	5100PL
CT CAM007798 DNJX115CV006357-001	3	05/09/2016 PLRA FILING FEE	05/09/2016	PR	19.70	VICTOR POLANCO CABRERA	O	04	5100PL
CT CAM007855 DNJX115CV006357-001	3	06/06/2016 PLRA FILING FEE	06/06/2016	PR	22.50	VICTOR POLANCO CABRERA	O	04	5100PL
CT CAM007941 DNJX115CV006357-001	3	07/11/2016 PLRA FILING FEE	07/11/2016	PR	27.56	VICTOR POLANCO CABRERA	O	04	5100PL
CT CAM008039 DNJX115CV006357-001	3	08/10/2016 PLRA FILING FEE	08/10/2016	PR	10.80	VICTOR POLANCO CABRERA	O	04	5100PL
CT CAM008107 DNJX115CV006357-001	3	09/12/2016 PLRA FILING FEE	09/12/2016	PR	19.00	VICTOR POLANCO CABRERA	O	04	5100PL
CT CAM008180 DNJX115CV006357-001	3	10/11/2016 PLRA FILING FEE	10/11/2016	PR	2.96	VICTOR POLANCO CABRERA	O	04	5100PL
CT CAM008180 DNJX115CV006357-001	1	10/11/2016 PLRA FILING FEE	10/11/2016	PR	20.92	VICTOR POLANCO CABRERA	O	04	0869PL

*** Document Type Legend**

Document Type	Document Type Name
CT	Cash Receipt - CCA Automated