

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:13-cv-00343-FDW**

JOHN EDWARD KUPLEN,)
)
 Plaintiff,)
)
 vs.)
)
 U.S. DEPARTMENT OF)
 JUSTICE, et al.,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER is before the Court on Plaintiff’s motions [Docs. 57, 59] and Plaintiff’s letter [Doc. 58].

Pro se Plaintiff John Edward Kuplen (“Plaintiff”) is a prisoner in the custody of the North Carolina Department of Public Safety (NCDPS) at the Caledonia Correctional Institution in Tillery, North Carolina. Plaintiff filed this action pursuant to 42 U.S.C. § 1983 [Doc. 1] and filed an Application to proceed without prepaying the filing fee [Doc. 2]. The Court granted the Application and entered an Order establishing a debt in the amount of the \$350 filing fee and directing the correctional facility to transmit monthly payments until the fee is paid in full. [Doc. 6]. On March 9, 2015, Plaintiff’s Complaint was dismissed for failure to state a claim upon which relief may be granted. [Doc. 43]. Previously, Plaintiff filed a letter directed to the Clerk’s Office stating that he wanted to use his stimulus check, which he had not yet received, to pay the remaining balance of the filing fee. [Doc. 53]. The Court denied Plaintiff’s request because Plaintiff was without authority to direct the use of Plaintiff’s stimulus check. [Doc. 54]. Plaintiff then filed a letter directed to the Clerk’s Office in which he stated that he had paid the \$195.00 balance of his filing fee on or around June 2, 2021, but that “prison authorities are still deducting

it from [his] trust account,” and that he “may be due a refund for excessive payment to date.” [Doc. 55]. The Court confirmed with the Clerk’s Financial Department that Plaintiff did, in fact, pay the balance of his filing fee on June 8, 2021. Because Plaintiff failed to allege that he is actually owed a refund and the Clerk’s records did not reflect an overpayment, however, the Court denied Plaintiff’s motion without prejudice. [Doc. 56].

Plaintiff now moves for reimbursement from overpayment of the filing fee by his correctional institution, [Docs. 57, 59; see Doc. 58], and for relief from the Clerk’s Order directing prison officials to deduct monthly filing fee payments “by directing said prison officials to show cause why they continue to deduct a filing fee without lawful order,” [Doc. 59]. Plaintiff also requests a “paid-in-full” receipt from the Court. Plaintiff claims he is now owed \$20.00 due to overpayment. [Id.]. Plaintiff, however, does not provide copies of his trust statements reflecting these payments, but only his own handwritten notes purporting to reflect his trust fund account records. [See Docs. 58, 59].

The Court has again consulted with the Clerk’s Financial Department and has been advised that payments totaling \$13.29 have been made on Plaintiff’s behalf since Plaintiff paid the filing fee in full. The Clerk, therefore, will reimburse Plaintiff in the amount of \$13.29. To the extent that the NCDPS has debited Plaintiff’s trust account in excess of this amount for payment of the filing fee in the instant case, the Clerk has not received such funds. The Court will deny Plaintiff’s request for a receipt, as the Clerk does not provide such receipts. If Plaintiff’s correctional institution wants confirmation of Plaintiff having paid his filing fee in this case in full, a representative may contact the Clerk’s Office. The Court will direct the NCDPS to cease making payments toward Plaintiff’s filing fee in this case, which has been paid in full.

ORDER

1. Plaintiff's motions [Docs. 57, 59] are **GRANTED IN PART** in that the Court has directed the Clerk's Financial Department to reimburse Plaintiff in accordance with the terms of this Order and will direct the NCDPS to cease deducting monthly payments of the filing fee in this matter. Any other relief sought by Plaintiff is **DENIED**.
2. The North Carolina Department of Public Safety is **DIRECTED** to cease deducting monthly payments from Plaintiff's trust fund account on Plaintiff's behalf for the filing fee in this matter. The Clerk's Order Directing the Correctional Facility to Transmit Partial Payments [Doc. 6] has been satisfied in full.
3. The Clerk is respectfully instructed to mail a copy of this Order to the Caledonia Correctional Institution and to NCDPS Division of Prisons, 4260 Mail Service Center, Raleigh, NC 27699-4260, to ensure that withdrawals from Plaintiff's inmate account for this case are terminated.

Signed: October 20, 2021



Frank D. Whitney
United States District Judge

