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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Steven Patrick Jernigan,

Petitioner,

vs.

Johnny Tucker,
et al.,

Respondents.

No. CV 05-3393-PHX-NVW (CRP)

ORDER

Plaintiff, confined in the Special Management Unit - I, at the Arizona State Prison - Eyman, in Florence, Arizona, has filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. Plaintiff has not paid the filing fee, nor has he filed a proper Application to *Proceed In Forma Pauperis*. The Court will allow **thirty days** for Petitioner to cure this deficiency.

A. Failure to Pay Filing Fee

The filing fee for a habeas corpus action is \$5.00. See 28 U.S.C. § 1914. An inmate must pay the fee if he has more than \$25.00 in his inmate account. LRCiv 3.5(b). If he has less than \$25.00 in his account, he may seek leave to proceed without payment of the filing fee by filing an Application to Proceed In Forma Pauperis. Petitioner has not paid the \$5.00 filing fee, nor has he filed an Application to Proceed In Forma Pauperis. The Court will allow Petitioner 30 days to cure this deficiency by either paying the fee or filing an

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1 Application to Proceed In Forma Pauperis accompanied by a certified trust account
2 statement.

3 **B. Rule 41 Warning of Possible Dismissal**

4 Petitioner is warned that failure to timely comply with every provision of this Order,
5 or any order entered in this matter, will result in dismissal of this action pursuant to Rule
6 41(b) of the Federal Rules of Civil Procedure. See Ferdik v. Bonzelet, 963 F.2d 1258 (9th
7 Cir. 1992) (district court may dismiss action for failure to comply with any order of the
8 court).

9
10 **IT IS THEREFORE ORDERED that:**

11 (1) Petitioner shall have 30 days from the date this Order is filed to pay the \$5.00
12 filing fee **or** to file with the Court a properly signed and certified Application to Proceed In
13 Forma Pauperis.

14 (2) The Clerk of Court shall enter a judgment of dismissal of this action without
15 prejudice and without further notice to Petitioner, if Petitioner fails to pay the \$5.00 filing
16 fee **or** fails to file a signed and certified Application to Proceed In Forma Pauperis within 30
17 days of the date this Order is filed.

18 (3) At all times during the pendency of this action, Petitioner shall immediately advise
19 the Court and the United States Marshal of any change of address and its effective date.
20 Such notice shall be captioned "NOTICE OF CHANGE OF ADDRESS." The notice shall
21 contain only information pertaining to the change of address and its effective date. The
22 notice shall not include any motions for any other relief. Failure to file a Notice of Change
23 of Address may result in the dismissal of the action for failure to prosecute pursuant to Rule
24 41(b) of the Federal Rues of Civil Procedure.

25 (4) Aside from the two copies of the petition or amended petition that must be
26 submitted, a clear, legible copy of every pleading or other document filed shall accompany
27 each original pleading or other document filed with the Clerk for use by the District Judge
28 or Magistrate Judge to whom the case is assigned. See LRCiv 3.5(a), 5.4. Failure to comply

1 with this requirement may result in the pleading or document being stricken without further
2 notice to Petitioner; and

3 (5) That the Clerk of Court shall provide Petitioner a current court-approved form for
4 filing an Application to Proceed In Forma Pauperis (Habeas).

5 DATED this 9th day of November, 2005.

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Neil V. Wake
United States District Judge