

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WO

SVK

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

Mark Mitchell,

Plaintiff,

vs.

State of Arizona, et al.,

Defendants.

No. CV 06-2273-PHX-SMM (DKD)

ORDER

Plaintiff Mark Mitchell, confined in Maricopa County Lower Buckeye Jail, has filed a *pro se* civil rights Complaint. Plaintiff also filed an Application to Proceed *In Forma Pauperis* using an outdated form that stated that the current filing fee is \$250.00, and he did not submit a certified six-month trust account statement. The Court will deny the Application to Proceed *In Forma Pauperis* with leave to file a new, completed Application.

Effective April 9, 2006, the filing fee for a civil rights action increased to \$350.00. See 28 U.S.C. § 1914, amended by, Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (Feb. 8, 2006). The local rules of this Court require Plaintiff to use the *current*, court-approved form. See LRCiv 3.4(a). In addition, an Application to Proceed *In Forma Pauperis* requires an affidavit of indigence and a certified copy of the inmate's trust account statement for the *six months* preceding the filing of the Complaint. 28 U.S.C. § 1915(a)(2).

JDDL

1 An inmate must submit statements from each institution where he was confined during the
2 six-month period. Id.

3 Accordingly, the Court will deny without prejudice Plaintiff's outdated and
4 incomplete Application to Proceed *In Forma Pauperis*. Plaintiff will have 30 days to file a
5 new Application to Proceed *In Forma Pauperis* or pay the \$350.00 filing fee. Plaintiff's new
6 Application must use the current, court-approved form. He must fill out the form completely,
7 including the sections designated as "Consent to Collection of Fees From Trust Account" and
8 "Certificate of Correctional Official as to Status of Applicant's Trust Account." Plaintiff
9 must also submit his certified six-month trust account statement. To assist Plaintiff, the
10 Court will direct the Clerk of Court to send Plaintiff a current, court-approved Application
11 to Proceed *In Forma Pauperis* form.

12 If Plaintiff fails to timely comply with every provision of this Order, or any order
13 entered in this matter, the Court may dismiss this action pursuant to Rule 41(b) of the Federal
14 Rules of Civil Procedure. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
15 (a district court may dismiss an action for failure to comply with any order of the Court).

16 **IT IS ORDERED:**

17 (1) Plaintiff's Application to Proceed *In Forma Pauperis*, filed with the Complaint,
18 is **denied** without prejudice.

19 (2) Within **30 days** from the filing date of this Order, Plaintiff must pay the \$350.00
20 filing fee or file a new Application to Proceed *In Forma Pauperis*.

21 (3) The Clerk of Court must enter a judgment of dismissal of this action, without
22 prejudice and without further notice, if Plaintiff fails to either pay the \$350.00 filing fee or
23 to file a new Application to Proceed *In Forma Pauperis* within 30 days of the date this Order
24 is filed.

25 ///

26 ///

27 ///

28

1 (3) The Clerk of Court must provide to Plaintiff the current instructions and form for
2 an Application to Proceed *In Forma Pauperis* By a Prisoner Civil (Non-Habeas).

3 DATED this 5th day of October, 2006.

4
5
6 

7 Stephen M. McNamee
8 United States District Judge
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28