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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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William Edward Davis Jr.,

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No. 06-2466-PHX-SMM (ECV)

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Petitioner,

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ORDER

11

vs.

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Dora B. Schriro, et al.,

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Respondents.

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Petitioner William Edward Davis Jr., presently confined in the Arizona State Prison Complex in Tucson, Arizona, has filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. Petitioner has not paid the filing fee, nor has he filed an Application to Proceed In Forma Pauperis. The Court will allow **thirty days** for Petitioner to cure this deficiency.

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I. Failure to Pay Filing Fee

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The filing fee for a habeas corpus action is \$5.00. See 28 U.S.C. § 1914. An inmate must pay the fee must 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

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1 will allow Petitioner 30 days to cure this deficiency by either paying the fee or filing an
2 Application to Proceed In Forma Pauperis accompanied by a certified trust account
3 statement.

4 **II. Rule 41 Cautionary Notice**

5 Petitioner should take notice that if he fails to timely comply with every provision of
6 this Order, or any order of the Court entered in this matter, the Petition and action will be
7 dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. See Ferdik v.
8 Bonzelet, 963 F.2d 1258 (9th Cir.) (district court may dismiss action for failure to comply
9 with any order of the Court), cert. denied, 506 U.S. 915 (1992).

10 **IT IS THEREFORE ORDERED:**

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

14 (2) That 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) That at all times during the pendency of this action, Petitioner shall immediately
19 advise the Court and the United States Marshal of any change of address and its effective
20 date. Such notice shall be captioned "NOTICE OF CHANGE OF ADDRESS." The notice
21 shall 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 Rules of Civil Procedure;

25 (4) That 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 19th day of October, 2006.

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Stephen M. McNamee
United States District Judge

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Name and Prisoner/Booking Number

Place of Confinement

Mailing Address

City, State, Zip Code

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

_____))
_____))
Petitioner,) CASE NO. _____
vs.))
_____))
Respondent(s).))
_____)

APPLICATION TO PROCEED
IN FORMA PAUPERIS
BY A PRISONER
(HABEAS)

I, _____, declare, in support of my request to proceed in the above entitled case without prepayment of fees under 28 U.S.C. § 1915, that I am unable to pay the fees for these proceedings or to give security therefor and that I believe I am entitled to relief.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently employed at the institution where you are confined? **G**Yes **G**No
If "Yes," state the amount of your pay and where you work. _____

2. Do you receive any other payments from the institution where you are confined? **G**Yes **G**No
If "Yes," state the source and amount of the payments. _____

3. Do you have any other sources of income, savings, or assets either inside or outside of the institution where you are confined? **G**Yes **G**No
If "Yes," state the sources and amounts of the income, savings, or assets. _____

I declare under penalty of perjury that the above information is true and correct.

DATE

SIGNATURE OF APPLICANT

CERTIFICATE OF CORRECTIONAL OFFICIAL
AS TO STATUS OF APPLICANT'S TRUST ACCOUNT

I, _____, certify that as of the date applicant signed this application:
(Printed name of official)

The applicant's trust account balance at this institution is: \$_____.

DATE

AUTHORIZED SIGNATURE

TITLE/ID NUMBER

INSTITUTION