

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

SC

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

Dushan Stephan Nickolich, II,

Plaintiff,

vs.

Arizona Department of Corrections, et al.,

Defendants.

No. CV 06-2508-PHX-SMM (JRI)

ORDER

Plaintiff Dushan Stephan Nickolich, II, who is confined in the Arizona State Prison Complex-Tucson, in Tucson, Arizona, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983. (Doc.# 1.)¹ The Court dismissed all of the Defendants on screening and subsequently granted a motion to dismiss filed by the remaining Defendant, Dr. Rowe, based on the statute of limitations. (Doc.# 49.) Plaintiff appealed and the Ninth Circuit reversed and remanded. (Doc.# 55.) The Court will order Dr. Rowe to file an answer or other response to the First Amended Complaint, doc.# 12, and refer this matter to the Magistrate

¹ “Doc.#” refers to the docket number of filings in this case.

1 Judge for further proceedings.

2 **Warnings**

3 **A. Release**

4 Plaintiff must pay the unpaid balance of the filing fee within 120 days of his release.
5 Also, within 30 days of his release, he must either (1) notify the Court that he intends to pay
6 the balance or (2) show good cause, in writing, why he cannot. Failure to comply may result
7 in dismissal of this action.

8 **B. Address Changes**

9 Plaintiff must file and serve a notice of a change of address in accordance with Rule
10 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
11 relief with a notice of change of address. Failure to comply may result in dismissal of this
12 action.

13 **C. Copies**

14 Plaintiff must serve Defendants, or counsel if an appearance has been entered, a copy
15 of every document that he files. Fed. R. Civ. P. 5(a). Each filing must include a certificate
16 stating that a copy of the filing was served. Fed. R. Civ. P. 5(d). Also, Plaintiff must submit
17 an additional copy of every filing for use by the Court. See LRCiv 5.4. Failure to comply
18 may result in the filing being stricken without further notice to Plaintiff.

19 **D. Possible Dismissal**

20 If Plaintiff fails to timely comply with every provision of this Order, including these
21 warnings, the Court may dismiss this action without further notice. See Ferdik v. Bonzelet,
22 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to
23 comply with any order of the Court).

24 **IT IS ORDERED:**

25 (1) Defendant must answer Counts I and III of the First Amended Complaint,
26 doc.# 12, or otherwise respond by appropriate motion within ten (10) days from the filing
27 date of this Order.

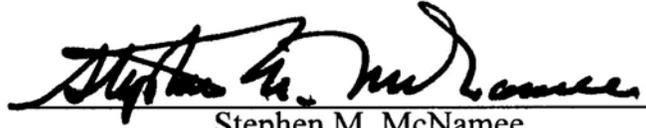
28 (2) This matter is referred to Magistrate Judge Jay R. Irwin pursuant to Rules 72.1

1 and 72.2 of the Local Rules of Civil Procedure for further proceedings.

2 DATED this 6th day of April, 2009.

3

4



5 Stephen M. McNamee
6 United States District Judge

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28