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

Robert Ritchie,

Petitioner,

vs.

Ivan Bartos, et al.,

Respondents.

No. CV 07-1362-PHX-SMM (DKD)

ORDER

Petitioner Robert Ritchie, who is confined in the Arizona State Prison Complex-Lewis, has filed a second *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Second Petition) and an Application to Proceed *In Forma Pauperis*. The Court will dismiss the Second Petition and this action without prejudice.

I. Application to Proceed *In Forma Pauperis*

Petitioner’s Application to Proceed *In Forma Pauperis* indicates that his inmate trust account balance is less than \$25.00. Accordingly, the Application to Proceed *In Forma Pauperis* will be granted. See LRCiv 3.5(b).

II. Second Petition

In his Second Petition, Petitioner challenges his November 18, 1997 judgment of conviction for theft and fraudulent schemes entered in the Maricopa County Superior Court in matter #CR 96-12943. Petitioner names Ivan Bartos as Respondent and the Arizona Attorney General of the State of Arizona as an additional Respondent. Petitioner raises only

1 one ground for relief.

2 Petitioner has not filled in the section of the court-approved form that asks if this is
3 Petitioner's first federal petition for writ of habeas corpus challenging this conviction, and
4 if it is not, whether the prior petition was denied, and whether the Ninth Circuit Court of
5 Appeals has granted permission to file a successive petition. A search of this Court's docket
6 reveals that Petitioner filed a previous *pro se* petition for writ of habeas corpus pursuant to
7 28 U.S.C. § 2254 in this Court on April 17, 2002 (First Petition), case number of CV 02-719-
8 PHX-SMM. In this First Petition, Petitioner also challenged his judgment of conviction in
9 the Maricopa County Superior Court in matter #CR 96-12943.

10 By Order filed November 10, 2003 (Doc. #35 in CV 02-719-PHX-SMM), the Court
11 adopted United States Magistrate Judge David K. Duncan's Report and Recommendation
12 (Doc. #33) that the First Petition be denied and dismissed with prejudice, and denied the First
13 Petition, terminating the case. Judgment was entered on November 10, 2003 (Doc. #36).

14 On November 21, 2003, Petitioner filed a Notice of Appeal, and on May 25, 2004 the
15 Ninth Circuit Court of Appeals denied Petitioner's request for a certificate of appealability.

16 **III. Dismissal of Second Petition**

17 Under 28 U.S.C. § 2244(b)(3)(A), as amended by the Antiterrorism and Effective
18 Death Penalty Act of 1996 (AEDPA), before a second or successive 28 U.S.C. § 2254
19 petition may be filed in the district court, a petitioner must first obtain an order from the
20 United States Court of Appeals authorizing the district court to consider the petition. The
21 Court of Appeals will not issue an order authorizing a successive petition unless the petition
22 meets the requirements of 28 U.S.C. §§ 2244(b)(A) and (B).

23 On February 15, 2007, Petitioner applied to the Ninth Circuit Court of Appeals for
24 leave to file a second or successive petition regarding his conviction and sentence in #CR 96-
25 12943. By Order filed April 6, 2007, the Ninth Circuit denied his application (Doc. #48 in
26 CV 02-719-PHX-SMM). Accordingly, the Second Petition, as well as this action will be
27 dismissed. **IT IS THEREFORE ORDERED:**

28 (1) Petitioner's Application to Proceed *In Forma Pauperis*, filed with the Second

1 Petition, is **granted**.

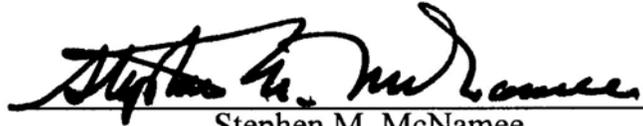
2 (2) Petitioner's Second Petition (Doc. #1) and this action are **dismissed** and the
3 Clerk of Court **must enter judgment accordingly**.

4 DATED this 30th day of July, 2007.

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Stephen M. McNamee
United States District Judge

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