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

Dale Maisano,

Petitioner,

vs.

Dora Schriro, et al.,

Respondents.

No. CV 07-1513-PHX-SMM (GEE)

ORDER

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

I. Failure to Comply with "Abusive Litigant" Pre-Filing Order

Petitioner has so often and egregiously abused the legal process in the past that on August 11, 1992, the Court entered an Order and Restraining Order enjoining him from filing any civil action in this or any other federal court without first obtaining leave of the court. See Order of August 11, 1992, Maisano v. Lewis, CV 92-1026-PHX-SMM (MS). To obtain leave to file, Mr. Maisano must file an "Application Pursuant to Court Order Seeking Leave to File" accompanied by an affidavit certifying: (1) that the claim or claims presented are new and have never been raised and disposed of on the merits by any federal court; and (2) that to the best of his knowledge the claim or claims presented are not frivolous or taken in

1 bad faith. Additionally, any application for leave to file must be accompanied by a copy of
2 the August 11, 1992 Order and Restraining Order in Maisano v. Lewis, CV 92-1026-PHX-
3 SMM (MS).¹

4 As he has done on numerous occasions in the past, Plaintiff has in this case ignored
5 the Court-mandated pre-filing requirements. Accordingly, the Petition and this action will
6 be dismissed for Plaintiff's failure to comply with the Court's prior Order and Restraining
7 Order.

8 **IT IS ORDERED** that the Petition (Doc. #1) and this action are **dismissed without**
9 **prejudice** for Plaintiff's failure to comply with the pre-filing requirements set out in the
10 Court's Order and Restraining Order of August 11, 1992, in Maisano v. Lewis, CV 92-1026-
11 PHX-SMM (MS), and the Clerk of Court **must enter** judgment and **close** this file
12 accordingly.

13 DATED this 15th day of August, 2007.

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18 Stephen M. McNamee
19 United States District Judge
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28 ¹The Court notes that Plaintiff appealed the final judgment in CV 92-1026-PHX-SMM
(MS) to the Ninth Circuit. The Court of Appeals dismissed the appeal on March 12, 1993.