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

Dale Maisano,

Plaintiff,

vs.

Terry L. Allred, et al.,

Defendants.

No. CV 07-1546-PHX-SMM (GEE)

ORDER

Plaintiff Dale Maisano, who is confined in the Arizona State Prison Complex-Yuma, has filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 and an Application to Proceed *In Forma Pauperis*. The Court will dismiss the Complaint and this action without prejudice.

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

Plaintiff 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 bad faith. Additionally, any application for leave to file must be accompanied by a copy of

1 the August 11, 1992 Order and Restraining Order in Maisano v. Lewis, CV 92-1026-PHX-
2 SMM (MS).¹

3 As he has done on numerous occasions in the past, Plaintiff has in this case ignored
4 the Court mandated pre-filing requirements. Accordingly, the Complaint and this action will
5 be dismissed without prejudice for Plaintiff's failure to comply with the Court's prior Order
6 and Restraining Order.

7 Accordingly,

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

12 **IT IS FURTHER ORDERED** that the Clerk of Court **shall enter** judgment and **close**
13 this file accordingly.

14 DATED this 15th day of August, 2007.

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19 Stephen M. McNamee
20 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.