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

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8 Earl Mervin Johnson,

9 Plaintiff,

10 vs.

11 Somerton Police Department, et al.,

12 Defendants.

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No. CV 07-2099-PHX-SMM (JJM)

**ORDER**

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Plaintiff Earl Mervin Johnson, who was then-confined in the Arizona State Prison Complex, Coronado Unit in Winslow, Arizona, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983. (Doc.# 1.)<sup>1</sup> Plaintiff subsequently filed a document captioned “Petition to Show Good Cause,” in which he states that he will complete “a temporary release commitment” on December 2, 2007 and will be able to provide addresses for the Defendants in this case. (Doc.# 3.) Because Plaintiff had not paid the \$350.00 civil action filing fee or filed a proper Application to Proceed *In Forma Pauperis*, the Court gave Plaintiff 30 days to pay the fee or to file a completed Application to Proceed *In Forma Pauperis*. (Doc.# 4.) On November 13, 2007, Plaintiff filed a notice of change of address indicating that he was due to be released on December 2, 2007. (Doc.# 5.) On December 3, 2007, Plaintiff filed an Application to Proceed *In Forma Pauperis*, which he dated November 3, 2007. (Doc.# 6.) Because Plaintiff has been released from custody, Plaintiff’s *in forma pauperis* application will be denied and he will be ordered to pay the filing fee or to show cause why

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

1 he is unable to do so.

2 **I. Payment of Filing Fee**

3 When bringing an action, a prisoner must either pay the filing fee in a lump sum or,  
4 if granted the privilege of proceeding *in forma pauperis*, pay the fee incrementally as set  
5 forth in 28 U.S.C. § 1915(b)(1). A prisoner who has been released must pay any unpaid  
6 balance of the filing fee within 120 days of his release unless he shows good cause why he  
7 cannot. In any event, a former inmate must, within 30 days of his release, either (1) notify  
8 the Court that he intends to pay the balance or (2) show good cause, in writing, why he  
9 cannot. Failure to comply may result in dismissal.

10 Plaintiff was an inmate when he commenced this action, therefore, he is liable for the  
11 \$350.00 filing fee. (See doc.# 1.) On December 3, 2007, Plaintiff filed a notice of change  
12 of address indicating that he has been released. None of the filing fee has been paid.  
13 Because Plaintiff has been released and he has not paid the filing fee, he must notify the  
14 Court within 30 days from the filing date of this Order whether he intends to pay the filing  
15 fee or show good cause in writing why he cannot. Plaintiff may show cause by submitting  
16 an affidavit, signed under penalty of perjury, demonstrating why he is presently unable to pay  
17 the filing fee. See 28 U.S.C. § 1746 (the oath requirement may be satisfied when a person  
18 declares under penalty of perjury that the submission is true and correct, and signs and dates  
19 the statement). An application to proceed *in forma pauperis* is attached, which may assist  
20 Plaintiff in the preparation of such an affidavit. Failure to comply with this Order may result  
21 in the dismissal of this action.

22 **II. Warnings**

23 **A. Address Changes**

24 Plaintiff must file and serve a notice of a change of address 10 days before the move  
25 is effective, if practicable. See LRCiv 83.3(d). Plaintiff must not include a motion for other  
26 relief with a notice of change of address. Failure to comply may result in dismissal.

27 **B. Copies**

28 Plaintiff must submit an additional copy of every document that he files for use by the

1 Court. See LRCiv 5.4. Failure to comply may result in the filing being stricken without  
2 further notice to Plaintiff.

3 **C. Possible Dismissal**

4 Plaintiff is warned that failure to timely comply with every provision of this Order,  
5 including these warnings, may result in dismissal of this action without further notice. See  
6 Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an  
7 action for failure to comply with any order of the Court).

8 **IT IS ORDERED:**

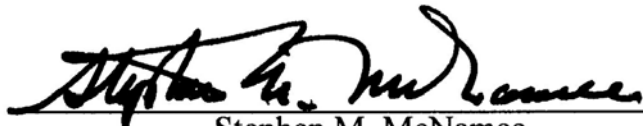
9 (1) Plaintiff's Application to Proceed *In Forma Pauperis* is **denied**. (Doc.# 6.)

10 (2) Within **30 days** from the filing date of this Order, Plaintiff must either pay the  
11 \$350.00 filing fee **or** show good cause why he is unable to pay the filing fee.

12 (3) If Plaintiff fails, within 30 days from the filing date of this Order, either to pay  
13 the \$350.00 court filing fee or to show good cause why he is unable to pay the filing fee, the  
14 Clerk of Court must enter a judgment of dismissal of this action without prejudice or further  
15 notice.

16 (4) The Clerk of Court must mail Plaintiff a court-approved form for filing an  
17 Application to Proceed *In Forma Pauperis* (Non-Habeas) as a guideline in the event that  
18 Plaintiff seeks to show good cause why he is unable to pay the filing fee.

19 DATED this 4th day of February, 2008.

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23 Stephen M. McNamee  
24 United States District Judge  
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