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

Van Bernard Branch,
Petitioner,

vs.

Dora Schriro, et al.,
Respondents.

) No. CV 08-76-PHX-SMM (MEA)

) **ORDER**

On January 14, 2008, Petitioner Van Bernard Branch, who is confined under Arizona Department of Corrections’ authority in the Great Plains Correctional Facility in Hinton, Oklahoma, filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. #1). Petitioner has not paid the \$5.00 filing fee but has filed a deficient Application to Proceed *In Forma Pauperis*.

I. Failure to Pay Filing Fee

Rule 3.5(b) of the Local Rules of Civil Procedure requires that “[i]f a habeas corpus petitioner desires to prosecute the petition *in forma pauperis*, the petitioner shall file an application to proceed [*in forma pauperis*] on a form approved by the Court, accompanied by a certification of the warden or other appropriate officer of the institution in which the petitioner is confined as to the amount of money or securities on deposit to the petitioner’s credit.” Rule 3.5(b) also requires payment of the \$5.00 filing fee if a petitioner has in excess

1 of \$25.00 in his inmate account.

2 **II. Application Fails to Comply With Statute**

3 Petitioner has used the court-approved form, but he has not signed the form and the
4 “Certificate Of Correctional Official As To Status Of Applicant’s Trust Account” section of
5 the form has not been completed or signed by an authorized institutional officer.
6 Accordingly, the Application to Proceed *In Forma Pauperis* will be denied without prejudice
7 and Petitioner will be given 30 days from the date this Order is filed to either pay the \$5.00
8 filing fee or file a completed Application to Proceed *In Forma Pauperis* using the form
9 included with this Order.

10 **III. Warnings**

11 **A. Address Changes**

12 Petitioner must file and serve a notice of a change of address in accordance with Rule
13 83.3(d) of the Local Rules of Civil Procedure. Petitioner must not include a motion for other
14 relief with a notice of change of address. Failure to comply may result in dismissal of this
15 action.

16 **B. Copies**

17 Petitioner must submit an additional copy of every filing for use by the Court. See
18 LRCiv 5.4. Failure to comply may result in the filing being stricken without further notice
19 to Petitioner.

20 **C. Possible Dismissal**

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

25 **IT IS ORDERED:**

26 (1) Petitioner’s Application to Proceed *In Forma Pauperis*, filed with the Petition,
27 is **denied without prejudice**.

28 (2) Within 30 days of the date this Order is filed, Petitioner **must either** pay the

1 \$5.00 filing fee **or** file a completed Application to Proceed *In Forma Pauperis*.

2 (3) **If** Petitioner fails to either pay the \$5.00 filing fee or file a completed
3 Application to Proceed *In Forma Pauperis* within 30 days, the Clerk of Court **must enter**
4 **a judgment of dismissal** of this action without prejudice and without further notice to
5 Petitioner.

6 (4) The Clerk of Court **must mail** Petitioner a court-approved form for filing an
7 Application to Proceed *In Forma Pauperis* (Habeas).

8 DATED this 4th day of February, 2008.

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12 Stephen M. McNamee
13 United States District Judge
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