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

Jenghiz K. Stewart,
Plaintiff,
vs.
Chuck Ryan, et al.,
Defendants.

No. CV 09-535-PHX-MHM (ECV)

ORDER

Plaintiff Jenghiz K. Stewart, who is confined in the Arizona State Prison Complex-Eyman in Florence, Arizona, has filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983. Plaintiff has not paid the \$350.00 civil action filing fee or filed a complete Application to Proceed *In Forma Pauperis*. The Court will give Plaintiff 30 days to pay the fee or file a completed Application to Proceed *In Forma Pauperis*.

I. Payment of Filing Fee

When bringing an action, a prisoner must either pay the \$350.00 filing fee in a lump sum or, if granted the privilege of proceeding *in forma pauperis*, pay the fee incrementally as set forth in 28 U.S.C. § 1915(b)(1). An application to proceed *in forma pauperis* requires an affidavit of indigence and a *certified* copy of the inmate’s trust account statement for the six months preceding the filing of the Complaint. 28 U.S.C. § 1915(a)(2). An inmate must submit statements from each institution where he was confined during the six-month period.

1 Id. To assist prisoners in meeting these requirements, the Court requires use of a form
2 application. LRCiv 3.4(a).

3 If a prisoner is granted leave to proceed *in forma pauperis*, the Court will assess an
4 initial partial filing fee of 20% of either the average monthly deposits or the average monthly
5 balance in Plaintiff's account, whichever is greater. 28 U.S.C. § 1915(b)(1). An initial
6 partial filing fee will only be collected when funds exist. 28 U.S.C. § 1915(b)(4). The
7 balance of the fee will be collected in monthly payments of 20% of the preceding month's
8 income credited to an inmate's account, each time the amount in the account exceeds \$10.00.
9 28 U.S.C. § 1915(b)(2).

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

11 Plaintiff has used the court-approved form, but the "Certificate of Correctional
12 Official as to Status of Applicant's Trust Account" section is not completed, and Plaintiff has
13 not submitted a certified six-month trust account statement. In light of these deficiencies,
14 Plaintiff will be permitted 30 days to either pay the \$350.00 filing fee or file a complete
15 Application to Proceed *In Forma Pauperis*.

16 The Arizona Department of Corrections (ADOC) has notified the Court that a certified
17 trust fund account statement showing deposits and average monthly balances is available
18 from the ADOC's Central Office. *Accordingly, Plaintiff must obtain the certified copy of*
19 *his ADOC trust fund account statement for the six months immediately preceding the filing*
20 *of the Complaint from the ADOC's Central Office.*

21 **III. Warnings**

22 **A. Address Changes**

23 Plaintiff must file and serve a notice of a change of address in accordance with Rule
24 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
25 relief with a notice of change of address. Failure to comply may result in dismissal of this
26 action.

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B. Copies

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

C. Possible Dismissal

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

IT IS ORDERED:

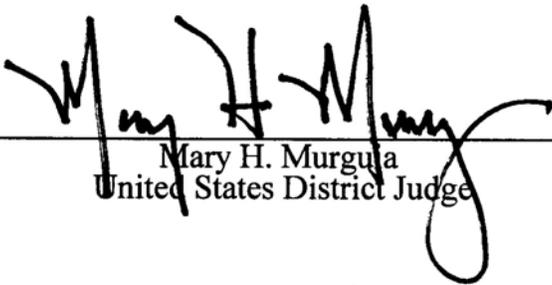
(1) Plaintiff's Application to Proceed *In Forma Pauperis* (Doc. #3) is **denied without prejudice**.

(2) Within 30 days of the date this Order is filed, Plaintiff must either pay the \$350.00 filing fee **or** file a complete Application to Proceed *In Forma Pauperis* and a certified six-month trust account statement.

(3) If Plaintiff fails to either pay the \$350.00 filing fee or file a complete Application to Proceed *In Forma Pauperis* within 30 days, the Clerk of Court must enter a judgment of dismissal of this action without prejudice and without further notice to Plaintiff.

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

DATED this 25th day of March, 2009.



Mary H. Murgula
United States District Judge