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

Raymond V. Gutierrez,  
Plaintiff,  
vs.  
Corrections Corporation of America, et al.,  
Defendants.

No. CV 10-0117-PHX-RCB (ECV)

**ORDER**

Raymond V. Gutierrez and four other inmates confined in the La Palma Corrections Center (LPCC), a Corrections Corporation of America (CCA) facility in Eloy, Arizona, filed a *pro se* Civil Rights Complaint by a Prisoner under 28 U.S.C. § 1983, Torrez v. Corrections Corp. of America, No. CV09-2298-PHX-MHM, doc.#1.<sup>1</sup> In an Order filed on January 21, 2010, the Court severed that action into separate cases. (Doc.# 2). Gutierrez, the Plaintiff in this case, has neither paid the \$350 filing fee nor filed an 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

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

1 as set forth in 28 U.S.C. § 1915(b)(1). An application to proceed *in forma pauperis* requires  
2 an affidavit of indigence and a *certified* copy of the inmate’s trust account statement for the  
3 six months preceding the filing of the Complaint. 28 U.S.C. § 1915(a)(2). An inmate must  
4 submit statements from each institution where he was confined during the six-month period.  
5 Id. To assist prisoners in meeting these requirements, the Court requires use of a form  
6 application. LRCiv 3.4(a).

7 If a prisoner is granted leave to proceed *in forma pauperis*, the Court will assess an  
8 initial partial filing fee of 20% of either the average monthly deposits or the average monthly  
9 balance in Plaintiff’s account, whichever is greater. 28 U.S.C. § 1915(b)(1). An initial  
10 partial filing fee will only be collected when funds exist. 28 U.S.C. § 1915(b)(4). The  
11 balance of the fee will be collected in monthly payments of 20% of the preceding month’s  
12 income credited to an inmate’s account, each time the amount in the account exceeds \$10.00.  
13 28 U.S.C. § 1915(b)(2).

14 **II. Failure to Pay Fee or File an *In Forma Pauperis* Application**

15 Plaintiff has neither paid the filing fee nor submitted an Application to Proceed *In*  
16 *Forma Pauperis*. To proceed *in forma pauperis*, Plaintiff must use the court-approved form  
17 and complete the “Consent to Collection of Fees from Trust Account” section. In addition,  
18 he must have the “Certificate of Correctional Official as to Status of Applicant’s Trust  
19 Account” section completed and Plaintiff submit a certified six-month trust account  
20 statement. Plaintiff will be permitted 30 days to either pay the \$350.00 filing fee or file a  
21 complete Application to Proceed *In Forma Pauperis*.

22 **III. Warnings**

23 **A. Address Changes**

24 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
25 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
26 relief with a notice of change of address. Failure to comply may result in dismissal of this  
27 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) Within 30 days of the date this Order is filed, Plaintiff must either pay the \$350.00 filing fee **or** file a completed Application to Proceed *In Forma Pauperis* and a certified six-month trust account statement.

(2) If Plaintiff fails to either pay the \$350.00 filing fee or file a completed 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.

(3) 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 9th day of March , 2010 .

  
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Robert C. Broomfield  
Senior United States District Judge