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

David Martinez,

Plaintiff,

vs.

Corrections Corporation of America, et al.,

Defendants.

No. CV 10-0120-PHX-MHM (ECV)

ORDER

On November 2, 2009, five inmates confined in the Corrections Corporation of America’s La Palma Correctional Center in Eloy, Arizona, including Plaintiff David Martinez, filed a lawsuit pursuant to 28 U.S.C. § 1983, Torrez v. Corrections Corporation of America, 09-CV-2298-PHX-MHM (MHB). In a January 20, 2010 Order in that case, the Court severed the action into separate lawsuits - one for each inmate. The Clerk of Court was directed to assign a new case number to each new action and file a copy of the Complaint and the January 20th Order in each new case. The instant case - 10-CV-120-PHX-MHM (ECV) - has been opened as Plaintiff David Martinez’s lawsuit.

Plaintiff has not paid the \$350.00 civil action filing fee or filed an Application to Proceed *In Forma Pauperis*. The Court will give Plaintiff 30 days to pay the fee or file a complete Application to Proceed *In Forma Pauperis*.

...

1 **I. Payment of Filing Fee**

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

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

10 If a prisoner is granted leave to proceed *in forma pauperis*, the Court will assess an
11 initial partial filing fee of 20% of either the average monthly deposits or the average monthly
12 balance in Plaintiff’s account, whichever is greater. 28 U.S.C. § 1915(b)(1). An initial
13 partial filing fee will only be collected when funds exist. 28 U.S.C. § 1915(b)(4). The
14 balance of the fee will be collected in monthly payments of 20% of the preceding month’s
15 income credited to an inmate’s account, each time the amount in the account exceeds \$10.00.
16 28 U.S.C. § 1915(b)(2).

17 Because Plaintiff has not paid the \$350.00 civil action filing fee or filed an
18 Application to Proceed *In Forma Pauperis*, Plaintiff will be permitted 30 days from the filing
19 date of this Order to submit a properly executed and certified Application to Proceed *In*
20 *Forma Pauperis*, using the form included with this Order, or pay the \$350.00 filing fee.

21 **II. 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).

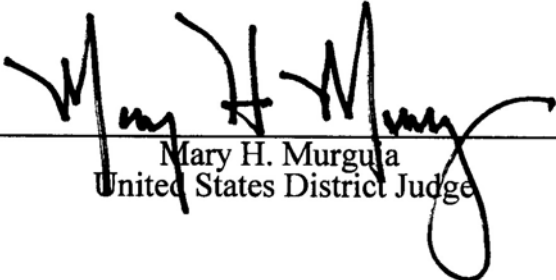
IT IS ORDERED:

(1) 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.

(2) 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 shall enter a judgment of dismissal of this action without prejudice and without further notice to Plaintiff.

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

DATED this 2nd day of February, 2010.



Mary H. Murgula
United States District Judge