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

David Lee Sharp,  
Plaintiff,  
vs.  
Dennis Kendall, et al.,  
Defendants.

No. CV 10-301-PHX-MHM (MHB)

**ORDER**

On February 10, 2010, Plaintiff David Lee Sharp, who is confined in the Arizona State Prison Complex-Eyman, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 (Doc. #1). Plaintiff did not immediately pay the \$350.00 civil action filing fee or file an Application to Proceed *In Forma Pauperis*. On February 17, 2010, Plaintiff filed a deficient Application to Proceed *In Forma Pauperis* (Doc. #3) and an Amended Complaint (Doc. #4).<sup>1</sup>

By Order filed February 25, 2010 (Doc. #5), the Court gave Plaintiff 30 days from the filing date of the Order to pay the fee or file a completed Application to Proceed *In Forma Pauperis* and a certified six-month trust account statement from the Central Office of the Arizona Department of Corrections (ADOC).

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<sup>1</sup>Plaintiff’s Application to Proceed *In Forma Pauperis* was deficient because it did not include a certified six-month trust account statement.

1 **I. Failure to Comply with Court Order**

2 To date, over two months after the filing date of the Court's February 25, 2010 Order  
3 (Doc. #5), Plaintiff has not complied with the Court's Order by either paying the \$350.00  
4 filing fee or filing a new Application to Proceed *In Forma Pauperis* and a certified six-month  
5 trust fund account statement from the ADOC's Central Office.

6 **II. Dismissal of Complaint and Action**

7 In the Court's February 25, 2010 Order, the Court specifically cautioned Plaintiff that  
8 if he failed to timely comply with every provision of the Order, including the warnings, the  
9 Court may dismiss this action without further notice. See *Ferdik v. Bonzelet*, 963 F.2d 1258,

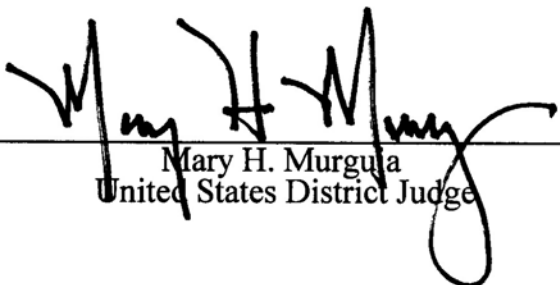
10 *1260-61 (9th Cir. 1992)* (a district court may dismiss an action for failure to comply with any  
11 order of the Court). Accordingly, the Amended Complaint (Doc. #4) and this action will be  
12 dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure  
13 for failure to comply with the Court's Order filed February 25, 2010 (Doc. #5). In so doing,  
14 the Court will also deny Plaintiff's deficient Application to Proceed *In Forma Pauperis*  
15 (Doc. #3), which was filed prior to the filing of the Court's February 25, 2010 Order.

16 **IT IS ORDERED:**

- 17 (1) Plaintiff's deficient Application to Proceed *In Forma Pauperis* (Doc. #3) is  
18 **denied.**
- 19 (2) The Amended Complaint (Doc. #4) and this action are **dismissed without**  
20 **prejudice** pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to  
21 comply with the Court's Order filed February 25, 2010 (Doc. #5).
- 22 (3) The Clerk of Court **must enter judgment** accordingly.

23 DATED this 17<sup>th</sup> day of May, 2010.

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Mary H. Murgula  
United States District Judge