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

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John Calvin Neuendorf, II,

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No. CV 10-2238-PHX-RCB (DKD)

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Petitioner,

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ORDER

11

vs.

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State of Arizona,

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Respondent.

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Petitioner John Calvin Neuendorf, II, who is confined in the Maricopa County Fourth Avenue Jail, has filed a *pro se* "Writ of Mandamus" (Doc. 1), which the Court will construe as a Petition for a Writ of Mandamus. Petitioner has not paid the \$350.00 civil action filing fee or filed an Application to Proceed *In Forma Pauperis*.

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The Court will give Petitioner 30 days to pay the fee or file a completed Application to Proceed *In Forma Pauperis* and a certified six-month trust account statement.

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I. Payment of Filing Fee

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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 Petition. 28 U.S.C. § 1915(a)(2). An inmate must

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1 submit statements from each institution where he was confined during the six-month period.
2 Id. To assist prisoners in meeting these requirements, the Court requires use of a form
3 application. LRCiv 3.4(a).

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

11 **II. Failure to Comply With Statute**

12 Petitioner has failed to comply with the provisions of 28 U.S.C. § 1915 by either
13 paying the \$350.00 civil action filing fee or filing an Application to Proceed *In Forma*
14 *Pauperis* and a certified six-month trust account statement. Accordingly, Petitioner will be
15 permitted 30 days to either pay the \$350.00 filing fee or file a complete Application to
16 Proceed *In Forma Pauperis* and a certified six-month trust account statement.

17 **III. Warnings**

18 **A. Address Changes**

19 Petitioner must file and serve a notice of a change of address in accordance with Rule
20 83.3(d) of the Local Rules of Civil Procedure. Petitioner must not include a motion for other
21 relief with a notice of change of address. Failure to comply may result in dismissal of this
22 action.

23 **B. Copies**

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

27 **C. Possible Dismissal**

28 If Petitioner fails to timely comply with every provision of this Order, including these

1 warnings, the Court may dismiss this action without further notice. See Ferdik v. Bonzelet,
2 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to
3 comply with any order of the Court).

4 **IT IS ORDERED:**

5 (1) Within **30 days** of the date this Order is filed, Petitioner **must either** pay the
6 \$350.00 filing fee **or** file a completed Application to Proceed *In Forma Pauperis* and a
7 certified six-month trust account statement.

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

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

14 DATED this 28th day of October, 2010.

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18 Robert C. Broomfield
19 Senior United States District Judge
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