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

Donald E. Boyd,  
Plaintiff,  
vs.  
State of Arizona, et al.,  
Defendants.

No. CV 10-2554-PHX-MHM (DKD)

**ORDER**

Plaintiff Donald E. Boyd, who is confined in the New Jersey State Prison in Trenton, New Jersey, has filed a *pro se* civil rights Complaint (Doc. 1) and an “Application For Pro Bono Counsel 28 U.S.C. § 1915(e)(1)” (Doc. 5). Plaintiff has not paid the \$350.00 civil action filing fee but has filed an Application To Proceed *In Forma Pauperis* (Doc. 2) and a “Trust Account Statement” (Doc. 3). The Court will deny the Application without prejudice and give Plaintiff 30 days to pay the filing fee or file a completed Application to Proceed *In Forma Pauperis* on a court-approved form and a certified six-month trust account statement.

**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 prisoner’s trust account statement for the

1 six months preceding the filing of the Complaint. 28 U.S.C. § 1915(a)(2). A prisoner must  
2 submit statements from each institution where he was confined during the six-month period.  
3 Id. To assist prisoners in meeting these requirements, the Court requires use of a form  
4 application. LRCiv 3.4(a).

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

## 12 **II. Deficient Application**

13 Although Plaintiff filed an Application to Proceed *In Forma Pauperis* (Doc. 2),  
14 Plaintiff's Application is deficient as an Application to Proceed *In Forma Pauperis* in this  
15 Court in a number of ways. First, the Application is not on the court-approved form.  
16 Second, the Application does not list the sum Plaintiff has on account to his credit at the  
17 institution, does not list the average monthly balance Plaintiff had during the past six months,  
18 and does not list the average monthly deposits to Plaintiff's account for the past six months.  
19 Third, the Application has not been signed by an authorized officer of the institution. Fourth,  
20 the "Trust Account Statement" (Doc. 3) which Plaintiff filed has not been certified by an  
21 authorized officer of the institution as required.

22 Accordingly, Plaintiff's Application will be denied without prejudice and Plaintiff will  
23 be permitted 30 days to either pay the \$350.00 filing fee or file a completed Application to  
24 Proceed *In Forma Pauperis* on a court-approved form and a certified six-month trust account  
25 statement.

## 26 **III. Warnings**

### 27 **A. Address Changes**

28 Plaintiff must file and serve a notice of a change of address in accordance with Rule

1 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
2 relief with a notice of change of address. Failure to comply may result in dismissal of this  
3 action.

4 **B. Copies**

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

8 **C. Possible Dismissal**

9 If Plaintiff fails to timely comply with every provision of this Order, including these  
10 warnings, the Court may dismiss this action without further notice. See *Ferdik v. Bonzelet*,  
11 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to  
12 comply with any order of the Court).

13 **IT IS ORDERED:**

14 (1) Plaintiff's Application to Proceed *In Forma Pauperis* (Doc. 2) is **denied**  
15 **without prejudice**.

16 (2) Within **30 days** of the date this Order is filed, Plaintiff **must either** pay the  
17 \$350.00 filing fee **or** file a completed Application to Proceed *In Forma Pauperis* on the  
18 court-approved form provided with this Order and a certified six-month trust account  
19 statement.

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

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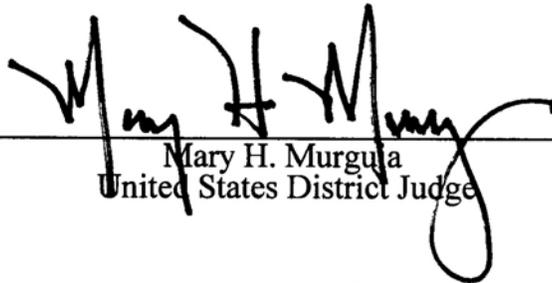
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1 (4) The Clerk of the Court **must mail** to Plaintiff a court-approved form for filing  
2 an Application to Proceed *In Forma Pauperis* (Non-Habeas).

3 DATED this 13<sup>th</sup> day of December, 2010.

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8 Mary H. Murgula  
9 United States District Judge  
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