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

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Thomas Bastian,

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No. CV 10-2743-PHX-RCB (ECV)

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Plaintiff,

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ORDER

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vs.

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United States,

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Defendant.

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On December 22, 2010, Plaintiff Thomas Bastian, who is confined in the Arizona State Prison Complex-Eyman in Florence, Arizona, filed a *pro se* "Complaint Pursuant to Rules 41(e) and (g) of Criminal Procedure for Return of Property."

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In a January 3, 2011 Order, the Court noted that Plaintiff had not paid the \$350.00 civil action filing fee or filed an Application to Proceed *In Forma Pauperis*. The Court gave Plaintiff 30 days either to pay the fee or file a complete Application to Proceed. The Court warned Plaintiff that the Court may dismiss the case if Plaintiff failed to "timely comply with every provision" of the Order and informed Plaintiff that the Clerk of Court would enter a judgment of dismissal of this action if he failed to either pay the filing fee or file a complete Application to Proceed within 30 days.

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On January 19, 2011, Plaintiff filed a Motion for Filing of Search Warrant Affidavit (Doc. 4).

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More than 30 days have passed since the Court issued its January 3rd Order and

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1 Plaintiff has not paid the filing fee or filed an Application to Proceed *In Forma Pauperis*.
2 Because Plaintiff has failed to comply with the Court's January 3rd Order, the Court will
3 dismiss this case pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. See *Ferdik*
4 *v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action
5 for failure to comply with any order of the Court). The Court will deny as moot the Motion
6 For Filing of Search Warrant Affidavit.

7 **IT IS ORDERED:**

8 (1) This action is **dismissed without prejudice** pursuant to Rule 41(b) of the
9 Federal Rules of Civil Procedure for failure to comply with the Court's January 3, 2011
10 Order. The Clerk of the Court shall enter judgment accordingly and close this case.

11 (2) Plaintiff's Motion for Filing of Search Warrant Affidavit (Doc. 4) is **denied**
12 **as moot**.

13 DATED this 19th day of February, 2011.

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17 Robert C. Broomfield
18 Senior United States District Judge
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