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

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Harvey Deon Kendrick,

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No. CV 10-2799-PHX-RCB (LOA)

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Plaintiff,

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**ORDER**

11

vs.

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Sheriff Joseph Arpaio, et al.,

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Defendants.

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On December 28, 2010, Plaintiff Harvey Deon Kendrick, who is confined in the Arizona State Prison Complex-Tucson in Tucson, Arizona, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 and an Application to Proceed *In Forma Pauperis* (Doc. 3). On February 2, 2011, he filed a First Amended Complaint.. The Court will deny the deficient Application to Proceed and will give Plaintiff 30 days to pay the fee or file a complete Application to Proceed *In Forma Pauperis*.

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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 Complaint. 28 U.S.C. § 1915(a)(2). An inmate must submit statements from each institution where he was confined during the six-month period.

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

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

## 10 **II. Application Fails to Comply With Statute**

11 Plaintiff has used the court-approved form, but he not submitted a certified six-month  
12 trust account statement. In light of this deficiency, Plaintiff will be permitted 30 days to  
13 either pay the \$350.00 filing fee or file a complete Application to Proceed *In Forma*  
14 *Pauperis*.

15 Although Plaintiff attached a printout of his Arizona Department of Corrections  
16 ("ADOC") inmate bank account statement to his Application to Proceed, the printout is not  
17 certified by an authorized officer of the institution and does not show deposits and average  
18 monthly balances, as required. ADOC has notified the Court that a certified trust fund  
19 account statement showing deposits and average monthly balances is available from the  
20 ADOC's Central Office. *Accordingly, Plaintiff must obtain the certified copy of his ADOC*  
21 *trust fund account statement for the six months immediately preceding the filing of the*  
22 *Complaint from the ADOC's Central Office.*

## 23 **III. Warnings**

### 24 **A. Address Changes**

25 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
26 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
27 relief with a notice of change of address. Failure to comply may result in dismissal of this  
28 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) Plaintiff's Application to Proceed *In Forma Pauperis* (Doc. 3) is **denied without prejudice**.

(2) 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 from the ADOC's Central Office.

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

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

DATED this 25th day of February, 2011.

  
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Robert C. Broomfield  
Senior United States District Judge