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

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Leonard D. O'Dell,

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Plaintiff,

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vs.

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Detention Officer Abbott, et al.,

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Defendants.

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No. CV 11-2261-PHX-RCB (MHB)

**ORDER**

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Plaintiff Leonard O'Dell, who is confined in the Fourth Avenue Jail, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983. Because Plaintiff had not paid the \$350.00 civil action filing fee or filed a proper Application to Proceed *In Forma Pauperis*, the Court denied Plaintiff's Application to Proceed *In Forma Pauperis* with leave to either pay the filing fee or file a properly completed *in forma pauperis* application. (Doc. 6.) Plaintiff has filed a motion to defer or waive filing fees, which will be denied because it is not on the court-approved form. (Doc. 5.) Plaintiff has also filed a new *in forma pauperis* application, which will be denied as incomplete. (Doc. 8.) In addition, Plaintiff has filed a motion to accelerate proceedings, which will be denied. (Doc. 12.) The Court will give Plaintiff another 30 days in which to either pay the fee or file a completed 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

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1 sum or, if granted the privilege of proceeding *in forma pauperis*, pay the fee incrementally  
2 as set forth in 28 U.S.C. § 1915(b)(1). An application to proceed *in forma pauperis* requires  
3 an affidavit of indigence and a *certified* copy of the inmate’s trust account statement for the  
4 six months preceding the filing of the Complaint. 28 U.S.C. § 1915(a)(2). An inmate must  
5 submit statements from each institution where he was confined during the six-month period.  
6 Id. To assist prisoners in meeting these requirements, the Court requires use of a form  
7 application. LRCiv 3.4(a).

8 If a prisoner is granted leave to proceed *in forma pauperis*, the Court will assess an  
9 initial partial filing fee of 20% of either the average monthly deposits or the average monthly  
10 balance in Plaintiff’s account, whichever is greater. 28 U.S.C. § 1915(b)(1). An initial  
11 partial filing fee will only be collected when funds exist. 28 U.S.C. § 1915(b)(4). The  
12 balance of the fee will be collected in monthly payments of 20% of the preceding month’s  
13 income credited to an inmate’s account, each time the amount in the account exceeds \$10.00.  
14 28 U.S.C. § 1915(b)(2).

15 **II. Application Fails to Comply With Statute**

16 Plaintiff has used the court-approved form, but he has *again* left blank the “Consent  
17 to Collection of Fees from Trust Account” section. This part of the *in forma pauperis*  
18 application *must be filled out, signed, and dated*. In light of that deficiency, Plaintiff will be  
19 permitted 30 days to either pay the \$350.00 filing fee or file a complete Application to  
20 Proceed *In Forma Pauperis*.

21 **III. Motion to Accelerate Proceedings**

22 As noted above, Plaintiff has filed a motion to accelerate proceedings. Specifically,  
23 Plaintiff appears to be seeking to accelerate discovery. Plaintiff’s request will be denied.  
24 Plaintiff must first either pay the filing fee or file a properly-completed *in forma pauperis*  
25 application using the court-approved form. If the Court thereafter concludes that Plaintiff  
26 has stated a legally-cognizable claim in his First Amended Complaint, service will be ordered  
27 and the case referred to a magistrate judge to set deadlines for discovery and other pretrial  
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1 matters.

2 **IV. Warnings**

3 **A. Address Changes**

4 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
5 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
6 relief with a notice of change of address. Failure to comply may result in dismissal of this  
7 action.

8 **B. Copies**

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

12 **C. Possible Dismissal**

13 If Plaintiff fails to timely comply with every provision of this Order, including these  
14 warnings, the Court may dismiss this action without further notice. See *Ferdik v. Bonzelet*,  
15 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to  
16 comply with any order of the Court).

17 **IT IS ORDERED:**

18 (1) Plaintiff's motion to defer or waive fees and his Application to Proceed *In*  
19 *Forma Pauperis* are **denied without prejudice**. (Doc. 5, 8.)

20 (2) Within 30 days of the date this Order is filed, Plaintiff must either pay the  
21 \$350.00 filing fee **or** file a completed Application to Proceed *In Forma Pauperis* and a  
22 certified six-month trust account statement.

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


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

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1 (5) Plaintiff's motion to accelerate proceedings is **denied**. (Doc. 12.

2 Dated this 27<sup>th</sup> day of December, 2011.

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Robert C. Broomfield  
Senior United States District Judge