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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Frank M. Mendez,

No. CV 13-231-PHX-RCB (JFM)

10 Plaintiff,

11 vs.

ORDER

12 State of Arizona, et al.,

13 Defendants.
14

15 Plaintiff Frank M. Mendez, who is confined in the Arizona State Prison Complex-
16 Lewis, has filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 and an
17 Application to Proceed *In Forma Pauperis* (Doc. 2). The Court will deny the deficient
18 Application to Proceed and will give Plaintiff 30 days to pay the fee or file a complete
19 Application to Proceed *In Forma Pauperis*.

20 **I. Payment of Filing Fee**

21 When bringing an action, a prisoner must either pay the \$350.00 filing fee in a
22 lump sum or, if granted the privilege of proceeding *in forma pauperis*, pay the fee
23 incrementally as set forth in 28 U.S.C. § 1915(b)(1). An application to proceed *in forma*
24 *pauperis* requires an affidavit of indigence and a *certified* copy of the inmate's trust
25 account statement for the six months preceding the filing of the Complaint. 28 U.S.C.
26 § 1915(a)(2). An inmate must submit statements from each institution where the inmate
27 was confined during the six-month period. *Id.* To assist prisoners in meeting these
28 requirements, the Court requires use of a form application. LRCiv 3.4.

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

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

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

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

21 **III. Warnings**

22 **A. Address Changes**

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

27 **B. Copies**

28 Plaintiff must submit an additional copy of every filing for use by the Court. *See*

1 LRCiv 5.4. Failure to comply may result in the filing being stricken without further
2 notice to Plaintiff.

3 **C. Possible Dismissal**

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

8 **IT IS ORDERED:**

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

11 (2) Within 30 days of the date this Order is filed, Plaintiff must either pay the
12 \$350.00 filing fee **or** file a complete Application to Proceed *In Forma Pauperis* and a
13 certified six-month trust account statement.

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

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

20 DATED this 4th day of March, 2013.

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24 Robert C. Broomfield
25 Senior United States District Judge
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