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

Kenneth Clyde Grindley,
Petitioner,
vs.
Charles L. Ryan, et al.,
Respondents.

No. CV 14-363-PHX-DGC (MHB)

ORDER

Petitioner Kenneth Clyde Grindley, who is confined in the Arizona State Prison Complex-Florence, has filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) and an Application to Proceed *In Forma Pauperis* (Doc. 2). The Court will require an answer to the Petition.

I. Application to Proceed *In Forma Pauperis*

Petitioner’s Application to Proceed *In Forma Pauperis* indicates that his inmate trust account balance is less than \$25.00. Accordingly, the Application to Proceed *In Forma Pauperis* will be granted. See LRCiv 3.5(b).

II. Petition

Petitioner was convicted in Maricopa County Superior Court, case #CR1994-009172, of aggravated assault and was sentenced to a 28-year term of imprisonment. In his Petition, Petitioner names Charles L. Ryan as Respondent and the Arizona Attorney General as an Additional Respondent. Petitioner raises two grounds for relief.

In Ground One, Petitioner alleges that he was denied effective assistance of post-

1 conviction relief counsel, in violation of his Sixth Amendment rights. In Ground Two,
2 Petitioner alleges that his Fifth, Sixth, Eighth and Fourteenth Amendment rights were
3 violated when he was sentenced to consecutive prison sentences, which Petitioner
4 contends was in breach of his plea agreement. Petitioner asserts that he has presented
5 both grounds to the Arizona Court of Appeals.

6 The Court will require Respondents to answer the Petition. 28 U.S.C. § 2254(a).

7 **III. Warnings**

8 **A. Address Changes**

9 Petitioner must file and serve a notice of a change of address in accordance with
10 Rule 83.3(d) of the Local Rules of Civil Procedure. Petitioner must not include a motion
11 for other relief with a notice of change of address. Failure to comply may result in
12 dismissal of this action.

13 **B. Copies**

14 Petitioner must serve Respondents, or counsel if an appearance has been entered, a
15 copy of every document that he files. Fed. R. Civ. P. 5(a). Each filing must include a
16 certificate stating that a copy of the filing was served. Fed. R. Civ. P. 5(d). Also,
17 Petitioner must submit an additional copy of every filing for use by the Court. LRCiv
18 5.4. Failure to comply may result in the filing being stricken without further notice to
19 Petitioner.

20 **C. Possible Dismissal**

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

25 **IT IS ORDERED:**

26 (1) Petitioner's Application to Proceed *In Forma Pauperis* (Doc. 2) is **granted**.

27 (2) The Clerk of Court must serve a copy of the Petition (Doc. 1) and this
28 Order on the Respondent and the Attorney General of the State of Arizona by certified

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mail pursuant to Rule 4, Rules Governing Section 2254 Cases.

(3) Respondents must answer the Petition within 40 days of the date of service. Respondents must not file a dispositive motion in place of an answer but may file an answer limited to relevant affirmative defenses, including but not limited to, statute of limitations, procedural bar, or non-retroactivity. If the answer is limited to affirmative defenses, only those portions of the record relevant to those defenses need be attached to the answer. Failure to set forth an affirmative defense in an answer may be treated as a waiver of the defense. *Day v. McDonough*, 547 U.S. 198, 209-11 (2006). If not limited to affirmative defenses, the answer must fully comply with all of the requirements of Rule 5 of the Rules Governing Section 2254 Cases.

(4) Petitioner may file a reply within 30 days from the date of service of the answer.

(5) This matter is referred to Magistrate Judge Michelle H. Burns pursuant to Rules 72.1 and 72.2 of the Local Rules of Civil Procedure for further proceedings and a report and recommendation.

Dated this 7th day of May, 2014.



David G. Campbell
United States District Judge