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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Aaron Joseph Bishop,
10 Plaintiff,

No. CV 14-00371 PHX SMM (MEA)

11 v.

ORDER

12 Paul R. Babeu, et al.,
13 Defendants.
14

15 Plaintiff Aaron Joseph Bishop, who was formerly confined in the Arizona State
16 Prison Complex-Eyman, in Florence, Arizona, filed a *pro se* civil rights Complaint
17 pursuant to 42 U.S.C. § 1983 and an Application to Proceed *In Forma Pauperis*. (Docs.
18 1, 6). Plaintiff has since filed a First Amended Complaint. (Doc. 15). On November 10,
19 2014, Plaintiff filed a Notice of Change of Address (Doc. 16) indicating he is no longer in
20 custody.

21 The Court granted Plaintiff leave to proceed *in forma pauperis* and assessed the
22 statutory filing fee of \$350.00. (Doc. 9). Plaintiff was cautioned that in the event of his
23 release, he would be required to pay the balance of the filing fee within 120 days or show
24 cause within 30 days why he cannot pay. Currently, Plaintiff owes \$338.24 towards the
25 fee.

26 Since the entry of the Court's last Order, this District's procedure concerning
27 payment of filing fees by released prisoners has changed. Under the new procedure, a
28 plaintiff who was a prisoner when he commenced a case, but who has since been

1 released, may file a *non-prisoner* application to proceed *in forma pauperis* and will not be
2 required to pay the balance of the filing and administrative fees if he meets the *non-*
3 *prisoner* indigency standards. In light of the change in this District's procedure, and
4 because Plaintiff is no longer incarcerated, the Court will grant Plaintiff leave either to
5 file a *non-prisoner* application to proceed *in forma pauperis* or pay the remaining balance
6 of the filing and administrative fees. If Plaintiff files a *non-prisoner* application to
7 proceed *in forma pauperis* and meets the indigency criteria for a non-prisoner, he will not
8 be required to pay the balance of the filing and administrative fees that he would be
9 required to pay if he were still incarcerated.

10 Accordingly, Plaintiff will be given 30 days from the date this Order is filed either
11 to file a *non-prisoner* Application to Proceed in District Court Without Prepaying Fees or
12 Costs or pay the \$338.24 balance of the filing fee. Pursuant to 28 U.S.C. § 1915(e)(2),
13 the Court is required to screen complaints brought by all plaintiffs who are proceeding *in*
14 *forma pauperis* and must dismiss a complaint or portion thereof if the plaintiff has raised
15 claims that are legally frivolous or malicious, that fail to state a claim upon which relief
16 may be granted, or seek monetary relief from a defendant who is immune from such
17 relief. Because Plaintiff filed his Complaint while he was incarcerated and is seeking
18 relief against a governmental entity or an officer or an employee of a governmental
19 entity, the Court must still screen the complaint pursuant to 28 U.S.C. § 1915A(a) and
20 must dismiss the complaint or portion thereof if Plaintiff has raised claims that are legally
21 frivolous or malicious, that fail to state a claim upon which relief may be granted, or that
22 seek monetary relief from a defendant who is immune from such relief. 28 U.S.C.
23 § 1915A(b)(1)-(2).

24 If Plaintiff fails to timely comply with every provision of this Order, the Court
25 may dismiss this action without further notice. *See Ferdik v. Bonzelet*, 963 F.2d 1258,
26 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to comply with
27 any order of the Court).

1 **IT IS ORDERED:**

2 (1) Within **30 days** from the date this Order is filed, Plaintiff must either file a
3 *non-prisoner* Application to Proceed in District Court Without Prepaying Fees or Costs as
4 described above **or** pay the \$338.24 balance of the \$350.00 filing fee.

5 (2) If Plaintiff fails either to file a *non-prisoner* Application to Proceed in
6 District Court Without Prepaying Fees or Costs or pay the 338.24 balance of the filing
7 fee, the Clerk of Court must enter a judgment of dismissal of this action without
8 prejudice.

9 (3) The Clerk of the Court must mail Plaintiff a non-prisoner Application to
10 Proceed in District Court Without Prepaying Fees or Costs.

11 DATED this 21st day of November, 2014,

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14 _____
15 Stephen M. McNamee
16 Senior United States District Judge
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Plaintiff,

vs.

Defendant.

CV

**MOTION TO PROCEED
IN FORMA PAUPERIS and
SUPPORTING INFORMATION**

I, _____, declare that I am the Plaintiff in this action;
that I hereby request to proceed without being required to prepay fees, costs or give security
therefore. I state that, because of my poverty, I am unable to pay the fees of said proceeding;
that I believe I am entitled to relief.

In further support of this application, I answer the following questions:

1. Are you presently employed? Yes No
 - a. If the answer is "yes", state the amount of your salary or wages per month and give the name and address of your employer.
 - b. If the answer is "no", state the date of last employment and the amount of the salary and wages per month which you received.
2. Is your spouse employed? Yes No
 - a. If the answer is "yes", state the amount of your spouse's salary or wages per month and give the name and address of your spouse's employer.

b. If the answer is "no", state the date of last employment and the amount of the salary and wages per month which your spouse received.

3. Have you received within the past twelve months any money from any of the following sources?

- a. Business or other form of self employment Yes No
- b. Rent payments, interest or dividends Yes No
- c. Pensions, annuities or life insurance payments Yes No
- d. Gifts or inheritances Yes No
- e. Any other sources Yes No

If the answer to any of the above is "yes", describe each source of money and state the amount received from each during the past twelve months.

4. Do you own any cash, or do you have money in checking or savings accounts?
If the answer is "yes", what is the amount of money you own in cash _____,
checking account _____, savings account _____.

5. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding household furnishing and clothing)? Yes No
If the answer is "yes", describe and give estimated value of each.

6. List the number of persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute towards their support.

I declare under penalty of perjury that the forgoing is true and correct.

DATED this ___ day of _____, 200__.

Your signature in ink

Your name typed or printed

Address

Telephone Number

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dismissal of this action without further notice if Plaintiff fails to pay the filing fee of \$350.00 within 10 days of the entry of this Order.

The Clerk shall forthwith notify the Plaintiff of the entry of this Order.

DATED this ___ day of _____, 200__.

United States District/Magistrate Judge

FEDERAL RULES OF CIVIL PROCEDURE

Rule 4. Summons

(a) Form.

The summons shall be signed by the clerk, bear the seal of the court, identify the court and the parties, be directed to the defendant, and state the name and address of the plaintiff's attorney or, if unrepresented, of the plaintiff. It shall also state the time within which the defendant must appear and defend, and notify the defendant that failure to do so will result in a judgment by default against the defendant for the relief demanded in the complaint. The court may allow a summons to be amended.

(b) Issuance

Upon or after filing the complaint, the plaintiff may present a summons to the clerk for signature and seal. If the summons is in proper form, the clerk shall sign, seal, and issue it to the plaintiff for service on the defendant. A summons, or a copy of the summons if addressed to multiple defendants, shall be issued for each defendant to be served.

(c) Service with Complaint; by Whom Made.

(1) A summons shall be served together with a copy of the complaint. The plaintiff is responsible for service of a summons and complaint within the time allowed under subdivision (m) and shall furnish the person effecting service with the necessary copies of the summons and complaint.

(2) Service may be effected by any person who is not a party and who is at least 18 years of age. At the request of the plaintiff, however, the court may direct that service be effected by a United States marshal, deputy United States marshal, or other person or officer specially appointed by the court for the purpose. Such an appointment must be made when the plaintiff is authorized to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 or is authorized to proceed as a seaman under 28 U.S.C. § 1916.

(d) Waiver of Service; Duty to Save Costs of Service; Request to Waive.

(1) A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the person of the defendant.

(2) An individual, corporation, or association that is subject to service under subdivision (e), (f), or (h) and that receives notice of an action in the manner provided in this paragraph has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant waive service of a summons. The notice and request