

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WO

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

Patrick James Zotika,

Plaintiff,

vs.

Steven Jackson, et al.,

Defendants.

No. CV 14-0830-PHX-SMM (DKD)

ORDER

Plaintiff Patrick James Zotika, who is confined in the Maricopa County Lower Buckeye Jail, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 and an Application to Proceed *In Forma Pauperis* (Doc. 2). The Court will deny the deficient Application to Proceed and will give Plaintiff 30 days to pay the filing and administrative fees or file a complete Application to Proceed *In Forma Pauperis*.

I. Payment of Filing Fee

When bringing an action, a prisoner must either pay the \$350.00 filing fee and a \$50.00 administrative fee in a lump sum or, if granted the privilege of proceeding *in forma pauperis*, pay the \$350.00 filing 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 the inmate was confined during the six-month

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

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
5 monthly balance in Plaintiff’s account, whichever is greater. 28 U.S.C. § 1915(b)(1). An
6 initial partial filing fee will only be collected when funds exist. 28 U.S.C. § 1915(b)(4).
7 The balance of the \$ 350.00 filing fee will be collected in monthly payments of 20% of
8 the preceding month’s income credited to an inmate’s account, each time the amount in
9 the account exceeds \$10.00. 28 U.S.C. § 1915(b)(2).

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

11 Plaintiff has used the court-approved form, but has left blank the “Consent to
12 Collection of Fees from Trust Account” section. This part of the *in forma pauperis*
13 application must be filled out, signed, and dated. The “Certificate of Correctional
14 Official as to Status of Applicant’s Trust Account” section is also not completed, and
15 Plaintiff has not submitted a certified six-month trust account statement. In light of these
16 deficiencies, the Court will deny the Application to Proceed and will give Plaintiff 30
17 days to either pay the \$400.00 filing and administrative fees or file a complete
18 Application to Proceed *In Forma Pauperis*.

19 **III. Warnings**

20 **A. Address Changes**

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

25 **B. Copies**

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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:

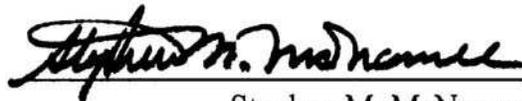
(1) Plaintiff's Application to Proceed *In Forma Pauperis* (Doc. 2) is **denied without prejudice**.

(2) Within 30 days of the date this Order is filed, Plaintiff must either pay the \$400.00 filing and administrative fees **or** file a complete Application to Proceed *In Forma Pauperis* and a certified six-month trust account statement.

(3) If Plaintiff fails to either pay the \$400.00 filing and administrative fees 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 20th day of August, 2014.



Stephen M. McNamee
Senior United States District Judge