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MDR

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

David Joseph Lopez,)	No. CV 06-2837-PCT-FJM (LOA)
Plaintiff,)	ORDER
vs.)	
Tom Sheahan, Mohave Co. Sheriff, et al.,)	
Defendants.)	

Plaintiff David Joseph Lopez, who is confined in the Arizona State Prison Complex in Florence, Arizona, has filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983. Plaintiff has not paid the \$350.00 civil action filing fee or filed a proper Application to Proceed *In Forma Pauperis*. The Court will give Plaintiff 30 days to pay the fee or file a completed 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 in a lump sum or, if granted the privilege of proceeding *in forma pauperis*, pay the 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 he was confined during the six-month period.

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

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 monthly
5 balance in Plaintiff's account, whichever is greater. 28 U.S.C. § 1915(b)(1). An initial
6 partial filing fee will only be collected when funds exist. 28 U.S.C. § 1915(b)(4). The
7 balance of the fee will be collected in monthly payments of 20% of the preceding month's
8 income credited to an inmate's account, each time the amount in the account exceeds \$10.00.
9 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 not submitted a certified six-month
12 trust account statement. Although Plaintiff attached a printout of his inmate bank account
13 statement to his Application to Proceed *In Forma Pauperis*, the printout is not certified by
14 an authorized officer of the institution and does not show deposits and average monthly
15 balances, as required.

16 **The Arizona Department of Corrections (ADOC) has notified the Court that a**
17 **certified trust fund account statement showing deposits and average monthly balances**
18 **is available from the ADOC's Central Office.**

19 Accordingly, Plaintiff's Application to Proceed will be denied without prejudice and
20 Plaintiff will be given 30 days to submit a new Application to Proceed, using the form
21 included with this Order, and a certified copy of his trust fund account statement **from the**
22 **ADOC's Central Office** for the six months immediately preceding the filing of the
23 Complaint.

24 **III. Warnings**

25 **A. Address Changes**

26 Plaintiff must file and serve a notice of a change of address in accordance with Rule
27 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
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1 relief with a notice of change of address. Failure to comply may result in dismissal of this
2 action.

3 **B. Copies**

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

7 **C. Possible Dismissal**

8 If Plaintiff fails to timely comply with every provision of this Order, including these
9 warnings, the Court may dismiss this action without further notice. See *Ferdik v. Bonzelet*,
10 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to
11 comply with any order of the Court).

12 **IT IS ORDERED:**

13 (1) Plaintiff's Application to Proceed *In Forma Pauperis*, filed with the Complaint,
14 is **denied without prejudice**.

15 (2) Within 30 days of the date this Order is filed, Plaintiff must either pay the
16 \$350.00 filing fee **or** file a completed Application to Proceed *In Forma Pauperis* and a
17 certified six-month trust account statement.

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

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