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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Kevin Pennington,

No. CV 14-8032-PCT-RCB (JFM)

10 Plaintiff,

11 vs.

ORDER

12 Arizona Department of Corrections, et
13 al.,

14 Defendants.
15

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

21 **I. Payment of Filing Fee**

22 When bringing an action, a prisoner must either pay the \$350.00 filing fee and a
23 \$50.00 administrative fee in a lump sum or, if granted the privilege of proceeding *in*
24 *forma pauperis*, pay the \$350.00 filing fee¹ incrementally as set forth in 28 U.S.C.

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26 _____
27 ¹ Effective May 1, 2013, the Clerks of Court for the United States District Courts
28 are required to collect a \$50.00 administrative fee for the filing of a civil action, suit, or
proceeding in a district court. See Judicial Conference Schedule of Fees, District Court
Miscellaneous Fee Schedule ¶14 (effective May 1, 2013), foll. 28 U.S.C. § 1914.
However, the administrative fee “does not apply to applications for a writ of habeas
corpus or to persons granted *in forma pauperis* status under 28 U.S.C. § 1915.” *Id.*

1 § 1915(b)(1). An application to proceed *in forma pauperis* requires an affidavit of
2 indigence and a *certified* copy of the inmate’s trust account statement for the six months
3 preceding the filing of the Complaint. 28 U.S.C. § 1915(a)(2). An inmate must submit
4 statements from each institution where the inmate was confined during the six-month
5 period. *Id.* To assist prisoners in meeting these requirements, the Court requires use of a
6 form application. LRCiv 3.4.

7 If a prisoner is granted leave to proceed *in forma pauperis*, the Court will assess an
8 initial partial filing fee of 20% of either the average monthly deposits or the average
9 monthly balance in Plaintiff’s account, whichever is greater. 28 U.S.C. § 1915(b)(1). An
10 initial partial filing fee will only be collected when funds exist. 28 U.S.C. § 1915(b)(4).
11 The balance of the \$ 350.00 filing fee will be collected in monthly payments of 20% of
12 the preceding month’s income credited to an inmate’s account, each time the amount in
13 the account exceeds \$10.00. 28 U.S.C. § 1915(b)(2).

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

15 Plaintiff has submitted page two of the court-approved form, but not page one.
16 Moreover, Plaintiff has crossed out and left blank the “Consent to Collection of Fees
17 from Trust Account” section. This part of the *in forma pauperis* application must be
18 filled out, signed, and dated. In light of these deficiencies, the Court will deny the
19 Application to Proceed and will give Plaintiff 30 days to either pay the \$400.00 filing and
20 administrative fees or file a complete Application to Proceed *In Forma Pauperis*.

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.

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B. Copies

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

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:

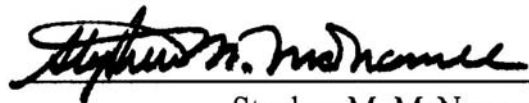
(1) Plaintiff's Application to Proceed *In Forma Pauperis* (Doc. 2) is **denied without prejudice**.

(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 28th day of April, 2014.



Stephen M. McNamee
Senior United States District Judge