

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

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WAYNE A. PORRETTI,)
)
 Plaintiff,)
)
 v.)
)
 DZURENDA et al.,)
)
 Defendants.)
 _____)

2:17-cv-01745-RFB-CWH

ORDER

I. DISCUSSION

Plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections, has submitted a civil rights complaint pursuant to 42 U.S.C. § 1983 and has filed incomplete applications to proceed *in forma pauperis*. (ECF No. 1-1, 3, 6).

Pursuant to 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, Plaintiff must complete an application to proceed *in forma pauperis* and attach both an inmate account statement for the past six months and a properly executed financial certificate. Plaintiff has not submitted a properly executed financial certificate on this Court’s approved form¹ or an inmate account statement. (See ECF No. 3, 6). The Court will retain Plaintiff’s civil rights complaint (ECF No. 1-1), but will not file it until the matter of the payment of the filing fee is resolved. Plaintiff will be granted an opportunity to cure the deficiencies of his application to proceed *in forma pauperis*, or in the alternative, pay the full filing fee for this action. If Plaintiff chooses to file a new application to proceed *in forma pauperis* he must file a fully complete application to proceed *in forma pauperis*.

¹ The financial certificate is located on page 4 of this Court’s application to proceed *in forma pauperis*. Plaintiff incorrectly continues to submit a state court form. (See ECF No. 3 at 4; ECF No. 6).

1 It is unclear to the Court whether Plaintiff is having difficulty obtaining a financial
2 certificate and an inmate account statement from prison officials. (See ECF No. 8-1). If,
3 Plaintiff is having difficulty and continues to have difficulty obtaining a financial certificate and
4 an inmate account statement from prison officials, Plaintiff shall file an affidavit in this case
5 detailing when he requested the documents, who he spoke to about the status of the
6 documents, who he followed up with after he did not receive the documents, and their
7 responses. In other words, if Plaintiff is unable to acquire the necessary documents from
8 prison officials, he must provide the Court with an affidavit that demonstrates that he has done
9 all that he could to acquire the documents by the Court's deadline. Plaintiff's affidavit should
10 include dates of his requests, dates of his follow-up requests, names of the prison officials that
11 he spoke to about the matter, and their responses.²

12 II. CONCLUSION

13 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court SHALL SEND
14 Plaintiff the approved form application to proceed *in forma pauperis* by a prisoner, as well as
15 the document entitled information and instructions for filing an *in forma pauperis* application.

16 IT IS FURTHER ORDERED that **on or before Friday, October 27, 2017**, Plaintiff shall
17 either: (1) file a fully complete application to proceed *in forma pauperis*, on the correct form
18 with complete financial attachments in compliance with 28 U.S.C. § 1915(a); or (2) file an
19 affidavit detailing the efforts he took to acquire a financial certificate and an inmate account
20 statement from prison officials. If Plaintiff chooses to file an affidavit, his affidavit must
21 describe the actions he took to acquire the documents through Friday, October 20, 2017.
22 Plaintiff shall not file an affidavit before that date. Additionally, Plaintiff must submit an
23 application to proceed *in forma pauperis* to this Court even if he is unable to acquire the
24 necessary attachments from prison officials.

25 ///

26 ///

28 ² Plaintiff must still submit an application to proceed *in forma pauperis* with his affidavit.

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

IT IS FURTHER ORDERED that if Plaintiff does not timely comply with this order, dismissal of this action may result.

DATED: September 19, 2017



United States Magistrate Judge