

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 JOHN GAINES,
4 aka Kenya Gaines,

Plaintiff

5 v.

6 HUTCH, et al.,
7

Defendants
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Case No. 2:20-cv-01908-APG-BNW

ORDER

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10 **I. DISCUSSION**

11 On October 13, 2020, Plaintiff, an inmate in the custody of the Nevada Department
12 of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983 and
13 filed an application to proceed in forma pauperis. (ECF Nos. 1-1, 1). Plaintiff’s application
14 to proceed in forma pauperis is incomplete.

15 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin
16 a civil action in this Court may apply to proceed in forma pauperis in order to file the civil
17 action without prepaying the full \$400 filing fee. To apply for in forma pauperis status, the
18 inmate must submit all three of the following documents to the Court:

19 (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this
20 Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on
21 page 3),

22 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
23 official (i.e. page 4 of this Court’s approved form), and

24 (3) a copy of the **inmate’s prison or jail trust fund account statement for the
25 previous six-month period.**

26 Plaintiff has not submitted a Financial Certificate (page 4 of this Court’s approved
27 form) or an inmate account statement for the previous six-month period. Accordingly, the
28 Court denies Plaintiff’s application to proceed in forma pauperis (ECF No. 1) without
prejudice because the application is incomplete. The Court will grant Plaintiff a **one-time**

1 **extension** to file a fully complete application to proceed in forma pauperis containing all
2 three of the required documents. Plaintiff will file a fully complete application to proceed
3 in forma pauperis on or before **December 14, 2020**. Absent unusual circumstances, the
4 Court will not grant any further extensions of time. If Plaintiff does not file a fully complete
5 application to proceed in forma pauperis with all three required documents on or before
6 **December 14, 2020**, the Court will dismiss this case without prejudice for Plaintiff to file
7 a new case with the Court when Plaintiff is able to acquire all three of the documents
8 needed to file a fully complete application to proceed in forma pauperis or pays the full
9 \$400 filing fee.

10 A dismissal without prejudice means Plaintiff does not give up the right to refile the
11 case with the Court, under a new case number, when Plaintiff has all three documents
12 needed to submit with the application to proceed in forma pauperis. Alternatively, Plaintiff
13 may choose not to file an application to proceed in forma pauperis and instead pay the
14 full filing fee of \$400 on or before **December 14, 2020** to proceed with this case.

15 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court
16 will not file the complaint unless and until Plaintiff timely files a fully complete application
17 to proceed in forma pauperis with all three documents or pays the full \$400 filing fee.

18 **II. CONCLUSION**

19 For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed
20 in forma pauperis (ECF No. 1) is denied without prejudice to file a new fully complete
21 application to proceed in forma pauperis with all three documents.

22 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
23 approved form application to proceed in forma pauperis by an inmate, as well as the
24 document entitled information and instructions for filing an in forma pauperis application.

25 IT IS FURTHER ORDERED that on or before **December 14, 2020**, Plaintiff will
26 either pay the full \$400 filing fee for a civil action (which includes the \$350 filing fee and
27 the \$50 administrative fee) or file with the Court:

28 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this

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Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page 3),
(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and
(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period.**

IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application to proceed in forma pauperis with all three documents or pay the full \$400 filing fee for a civil action on or before **December 14, 2020**, the Court will dismiss this action without prejudice for Plaintiff to refile the case with the Court, under a new case number, when Plaintiff has all three documents needed to file a complete application to proceed in forma pauperis or pays the the full \$400 filing fee.

IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint (ECF No.1-1) but will not file it at this time.

DATED: October 16, 2020.


UNITED STATES MAGISTRATE JUDGE