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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**

5 BOIVAE FLEMING,

Case No. 2:20-cv-01983-RFB-EJY

6 Petitioner,

7 v.

ORDER

8 WARDEN HUTCHISON, et al.,

9 Respondents.

10 Petitioner Boivae Fleming, a Nevada state prisoner proceeding *pro se*, has filed a petition
11 for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Currently before the Court is Fleming's
12 Application to Proceed *In Forma Pauperis* (ECF No. 4).

13 Under 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5.00 filing
14 fee is required to initiate a habeas action in a federal district court. The court may authorize an
15 indigent prisoner to begin a habeas action without paying the \$5 fee if the he or she submits an IFP
16 application on the approved form along with the appropriate supporting documentation. 28 U.S.C.
17 § 1915(a); LSR 1-1, LSR 1-2.

18 Although Fleming submitted the required form, the supporting documents show he is able
19 to pay the \$5 filing fee. Thus, Fleming does not qualify for a fee waiver. The Court therefore
20 denies the IFP application and gives Fleming 45 days to pay the filing fee.

21 **IT THEREFORE IS ORDERED:**

- 22 1. Petitioner Boivae Fleming's Application to Proceed *In Forma Pauperis* (ECF No. 4) is
23 DENIED.
- 24 2. Fleming must pay the \$5.00 filing fee **within 45 days of the date of this order**.
- 25 3. The Clerk of Court is instructed to send Fleming *two* copies of this order. Fleming
26 must make the necessary arrangements to have a copy of this order attached to the
27 check for the filing fee.
- 28 4. The initial screening of Fleming's petition for writ of habeas corpus under the Rules

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Governing Section 2254 Cases in the United States District Courts and consideration of his Motion for Appointment of Counsel (ECF No. 1-4) are deferred to until such time as he has fully complied with this order.

5. Failure to timely comply with this order will result in the dismissal of this action without further advance notice.

DATED this 19th day of November, 2020.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE