

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

KEITH PAUL BIRD,

Plaintiff

v.

JAMES DZURENDA, et al.,

Defendants

Case No. 2:20-cv-02093-JAD-NJK

**ORDER**

**I. DISCUSSION**

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

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

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e. pages 1 through 3 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**.

Plaintiff has not submitted a current application to proceed *in forma pauperis* or current financial attachments. Accordingly, the Court denies Plaintiff’s application to proceed *in forma pauperis*, Docket No. 1, without prejudice because the application is incomplete. The Court will

1 grant Plaintiff a **one-time extension** to file a fully complete application to proceed *in forma*  
2 *pauperis* containing all three of the required documents. Plaintiff will file a fully complete  
3 application to proceed *in forma pauperis* on or before **January 15, 2021**. Absent unusual  
4 circumstances, the Court will not grant any further extensions of time.

5 If Plaintiff does not file a fully complete application to proceed *in forma pauperis* with all  
6 three required documents on or before **January 15, 2021**, this case will be subject to dismissal  
7 without prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to acquire all  
8 three of the documents needed to file a fully complete application to proceed *in forma pauperis* or  
9 pays the full \$400 filing fee.

10 A dismissal without prejudice means Plaintiff does not give up the right to refile the case  
11 with the Court, under a new case number, when Plaintiff has all three documents needed to submit  
12 with the application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file  
13 an application to proceed *in forma pauperis* and instead pay the full filing fee of \$400 on or before  
14 **January 15, 2021** to proceed with this case.

15 Additionally, the Court notes that Plaintiff has used an incorrect case number on his  
16 submitted filings. Plaintiff is directed to use only the assigned case number of 2:20-cv-02093-  
17 **JAD-NJK** on any future documents he submits to the Court in this case.

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

## 21 **II. CONCLUSION**

22 For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed *in forma*  
23 *pauperis*, Docket No. 1, is denied without prejudice to file a new fully complete application to  
24 proceed *in forma pauperis* with all three documents.

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

1 IT IS FURTHER ORDERED that, on or before **January 15, 2021**, Plaintiff will either pay  
2 the full \$400 filing fee for a civil action (which includes the \$350 filing fee and the \$50  
3 administrative fee) or file with the Court:

4 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's  
5 approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page  
6 3),

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

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

11 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application to  
12 proceed *in forma pauperis* with all three documents or pay the full \$400 filing fee for a civil action  
13 on or before **January 15, 2021**, this case will be subject to dismissal without prejudice for Plaintiff  
14 to refile the case with the Court, under a new case number, when Plaintiff has all three documents  
15 needed to file a complete application to proceed *in forma pauperis* or pays the the full \$400 filing  
16 fee.

17 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint, Docket  
18 No. 1-1, but will not file it at this time.

19 DATED: November 17, 2020.

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22 NANCY J. KOPPE  
23 UNITED STATES MAGISTRATE JUDGE  
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