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2 UNITED STATES DISTRICT COURT

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DISTRICT OF NEVADA

4

VITO SANCHEZ,

Case No. 2:21-cv-00732-JAD-NJK

5

Plaintiff,

ORDER

6

v.

7

F. DREESEN, *et al.*,

8

Defendants.

9

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I. DISCUSSION

11 On May 3, 2021, Plaintiff, an inmate in the custody of the Nevada Department of Corrections
12 (“NDOC”), submitted a civil rights Complaint under 42 U.S.C. § 1983. Docket No. 1-1. Plaintiff
13 neither paid the full \$402 filing fee nor filed an application to proceed *in forma pauperis*.

14 On May 6, 2021, this Court ordered Plaintiff to file a fully complete application to proceed
15 *in forma pauperis* or pay the full \$402 filing fee on or before July 6, 2021. Docket No. 3. On May
16 18, 2021, the Court received a returned mail receipt indicating the Court's May 6, 2021 order was
17 undeliverable. Docket No. 4.

18 On June 17, 2021, Plaintiff filed a Notice of Change of Address, Docket No. 5, and a Notice
19 stating he was having difficulty obtaining his financial certificate and inmate account statement for
20 the previous six-month period from prison officials. Docket No. 6.

21 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to commence a
22 civil action may apply to proceed *in forma pauperis*, which allows the inmate to file the civil action
23 without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must
24 submit all three of the following documents to the Court:

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

27 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official

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1 (i.e. page 4 of this Court's approved form), and

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

4 In the event Plaintiff is having difficulty obtaining the required financial certificate and
5 inmate account statement for the previous six-month period from prison officials, Plaintiff shall file
6 a declaration detailing when he requested the documents, who he spoke to about the status of the
7 documents, who he followed up with after he did not receive the documents, and their responses.
8 Plaintiff's declaration shall include dates of his requests, dates of his follow-up requests, names of
9 the prison officials that he spoke to about the matter, and their responses. If Plaintiff's declaration
10 demonstrates that he has done all that was possible to acquire the documents from prison officials,
11 the Court will consider his application to proceed *in forma pauperis* complete.¹

12 Accordingly, the Court grants Plaintiff a **one-time extension** until on or before **August 30, 2021** to file a fully complete application to proceed *in forma pauperis* containing all three of the
13 required documents or, alternatively, the first three pages of the application to proceed *in forma*
14 *pauperis* and a declaration detailing the efforts he took to acquire the financial certificate and inmate
15 account statement from prison officials. Absent unusual circumstances, the Court will not grant any
16 further extensions of time. If Plaintiff does not file a fully complete application to proceed *in forma*
17 *pauperis* with all three required documents or, alternatively, the first three pages of the application to proceed
18 *in forma pauperis* and a declaration detailing the efforts he took to acquire the financial
19 certificate and inmate account statement from prison officials on or before **August 30, 2021**, this
20 case will be subject to dismissal without prejudice for Plaintiff to file a new case with the Court
21 when Plaintiff is able to acquire all three of the documents needed to file a fully complete application
22 to proceed *in forma pauperis* or, alternatively, the first three pages of the application to proceed *in*
23 *forma pauperis* and a declaration detailing the efforts he took to acquire the financial certificate and

25 _____
26 ¹ Plaintiff must still submit the first three pages of the application to proceed *in forma pauperis*
27 on this Court's approved form with his declaration. If Plaintiff does not submit the first three pages
28 of the application to proceed *in forma pauperis* with the declaration, this case will be subject to
dismissal without prejudice for Plaintiff to open a new case when he is able to acquire the required
documents.

1 inmate account statement from prison officials.

2 A dismissal without prejudice means Plaintiff does not give up the right to refile the case
3 with the Court, under a new case number, when Plaintiff has all three documents needed to submit
4 with the application to proceed *in forma pauperis* or, alternatively, the first three pages of the
5 application to proceed *in forma pauperis* and a declaration detailing the efforts he took to acquire
6 the financial certificate and inmate account statement from prison officials. Plaintiff may choose
7 not to file an application to proceed *in forma pauperis* and instead pay the full filing fee of \$402 on
8 or before **August 30, 2021** to proceed with this case.

9 The Court will retain Plaintiff's civil rights Complaint, Docket No. 1-1, but the Court will
10 not file the Complaint unless and until Plaintiff timely files a fully complete application to proceed
11 *in forma pauperis* with all three documents, or, alternatively, the first three pages of the application
12 to proceed *in forma pauperis* and a declaration detailing the efforts he took to acquire the financial
13 certificate and inmate account statement from prison officials, or pays the full \$402 filing fee.

14 **II. CONCLUSION**

15 For the foregoing reasons, IT IS HEREBY ORDERED that the Clerk of the Court shall send
16 Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well as the
17 document entitled information and instructions for filing an *in forma pauperis* application.

18 IT IS FURTHER ORDERED that, on or before **August 30, 2021**, Plaintiff shall either pay
19 the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
20 administrative fee) or file with the Court:

21 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's
22 approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page
23 3),

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

26 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
27 **six-month period**. If Plaintiff has not been at the facility a full six-month period, Plaintiff

1 must still submit an inmate account statement for the dates he has been present at the facility.

2 IT IS FURTHER ORDERED that if Plaintiff is not able to obtain his financial certificate and
3 inmate account statement from prison officials, Plaintiff shall file the first three pages of the
4 application to proceed *in forma pauperis* together with a declaration detailing the efforts he took to
5 acquire the financial certificate and inmate account statement from prison officials.

6 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application to
7 proceed *in forma pauperis* with all three documents, or, alternatively, the first three pages of the
8 application to proceed *in forma pauperis* and a declaration detailing the efforts he took to acquire
9 the financial certificate and inmate account statement from prison officials, or pay the full \$402 filing
10 fee for a civil action on or before **August 30, 2021**, this case will be subject to dismissal without
11 prejudice for Plaintiff to refile the case with the Court, under a new case number, when Plaintiff has
12 all three documents needed to file a complete application to proceed *in forma pauperis*.

13 IT IS FURTHER ORDERED that the Clerk of the Court shall retain Plaintiff's civil rights
14 Complaint, Docket No. 1-1, but will not file it at this time.

15 DATED: July 14, 2021.

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17 NANCY J. KOPPE
18 UNITED STATES MAGISTRATE JUDGE
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