

1  
2 UNITED STATES DISTRICT COURT  
3 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

10 **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  
28

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.<sup>1</sup>

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

---

25 <sup>1</sup> Plaintiff must still submit the first three pages of the application to proceed *in forma pauperis*  
26 on this Court's approved form with his declaration. If Plaintiff does not submit the first three pages  
27 of the application to proceed *in forma pauperis* with the declaration, this case will be subject to  
28 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  
28

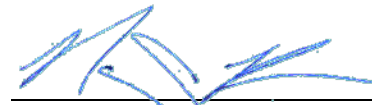
1 must still submit an inmate account statement for the dates he has been present at the facility.

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.

16   
17 \_\_\_\_\_  
18 NANCY J. KOPPE  
19 UNITED STATES MAGISTRATE JUDGE  
20  
21  
22  
23  
24  
25  
26  
27  
28