

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 RONALD J. ALLISON,

Case No. 2:21-cv-02255-RFB-DJA

4 Plaintiff,

5 v.

ORDER

6 JUDGE JOHN GOODMAN, et al.,

7 Defendants.

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9 I. DISCUSSION

10 On December 27, 2021, Plaintiff, an inmate currently located at the Nevada
11 Department of Corrections ("NDOC"), submitted a civil rights complaint under 42 U.S.C.
12 § 1983. (ECF No. 1-1). Plaintiff has not submitted a complaint in compliance with Local
13 Special Rule 2-1 or an application to proceed *in forma pauperis* or paid the full \$402 filing
14 fee in this matter.

15 **Complaint**

16 The Court notes that Plaintiff's document at ECF No. 1-1 does not comply with
17 Local Special Rule 2-1 ("LSR 2-1"). Under LSR 2-1, a civil rights complaint filed by a
18 person who is not represented by an attorney must be submitted on the form provided by
19 the court or must be legible and contain substantially all the information called for by the
20 court's form. As such, the Court grants Plaintiff a **one-time** extension until on or before
21 **March 7, 2022** to submit complaint to the Court in compliance with LSR 2-1. The Court
22 will also provide Plaintiff a copy of the Court's § 1983 complaint form with instructions.

23 **Application to Proceed *in Forma Pauperis***

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

1 Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on
 2 page 3),

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

5 (3) a copy of the **inmate's facility or jail trust fund account statement for the**
 6 **previous six-month period.** If Plaintiff has not been at the facility a full six-month
 7 period, Plaintiff must still submit an inmate account statement for the dates he has
 8 been present at the facility.

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

18 Accordingly, the Court grants Plaintiff a **one-time extension** until on or before
 19 **March 7, 2022** to file a fully complete application to proceed *in forma pauperis* containing
 20 all three of the required documents or, alternatively, **the first three pages of the application**
 21 **to proceed in forma pauperis and a declaration detailing the efforts he took to acquire the**
 22 **financial certificate and inmate account statement from facility officials.** Absent unusual
 23 circumstances, the Court will not grant any further extensions of time. If Plaintiff does not
 24 file a fully complete application to proceed *in forma pauperis* with all three required

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

1 documents or, alternatively, the first three pages of the application to proceed *in forma*
2 *pauperis* and a declaration detailing the efforts he took to acquire the financial certificate
3 and inmate account statement from facility officials on or before **March 7, 2022**, the Court
4 will recommend dismissal of this case without prejudice for Plaintiff to file a new case with
5 the Court when Plaintiff is able to acquire all three of the documents needed to file a fully
6 complete application to proceed *in forma pauperis* or, alternatively, the first three pages of
7 the application to proceed *in forma pauperis* and a declaration detailing the efforts he took
8 to acquire the financial certificate and inmate account statement from facility officials.

9 A dismissal without prejudice means Plaintiff does not give up the right to refile the
10 case with the Court, under a new case number, when Plaintiff has all three documents
11 needed to submit with the application to proceed *in forma pauperis* or, alternatively, the first
12 three pages of the application to proceed *in forma pauperis* and a declaration detailing the
13 efforts he took to acquire the financial certificate and inmate account statement from facility
14 officials. Plaintiff may choose not to file an application to proceed *in forma pauperis* and
15 instead pay the full filing fee of \$402 on or before **March 7, 2022** to proceed with this case.

16 The Court will retain Plaintiff's civil rights Complaint (ECF No. 1-1), but the Court will
17 not file the Complaint unless and until Plaintiff timely files a fully complete application to
18 proceed *in forma pauperis* with all three documents, or, alternatively, the first three pages
19 of the application to proceed *in forma pauperis* and a declaration detailing the efforts he
20 took to acquire the financial certificate and inmate account statement from facility officials,
21 or pays the full \$402 filing fee.

22 **II. CONCLUSION**

23 For the foregoing reasons, IT IS HEREBY ORDERED that the Clerk of the Court
24 will send to Plaintiff the approved form for filing a § 1983 complaint, instructions for the
25 same, and a copy of his original document at ECF No. 1-1.

26 IT IS FURTHER ORDERED that Plaintiff will have until on or before **March 7, 2022**
27 to submit complaint to the Court in compliance with LSR 2-1.

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1 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint in compliance
2 with LSR 2-1 on or before **March 7, 2022**, this case will be subject to dismissal without
3 prejudice for Plaintiff to refile the case with the Court, under a new case number, when
4 Plaintiff is able to file a complaint in compliance with LSR 2-1.

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

8 IT IS FURTHER ORDERED that on or before **March 7, 2022**, Plaintiff shall either
9 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
10 administrative fee) or file with the Court:

- 11 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
12 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
13 signatures on page 3),
- 14 (2) a **Financial Certificate** properly signed by both the inmate and a facility or jail
15 official (i.e. page 4 of this Court's approved form), and
- 16 (3) a copy of the **inmate's facility or jail trust fund account statement for the**
17 **previous six-month period**. If Plaintiff has not been at the facility a full six-month
18 period, Plaintiff must still submit an inmate account statement for the dates he has
19 been present at the facility.

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

25 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application
26 to proceed *in forma pauperis* with all three documents, or, alternatively, the first three pages
27 of the application to proceed *in forma pauperis* and a declaration detailing the efforts he

1 took to acquire the financial certificate and inmate account statement from facility officials,
2 or pay the full \$402 filing fee for a civil action on or before **March 7, 2022**, the Court will
3 recommend dismissal of this action without prejudice for Plaintiff to refile the case with the
4 Court, under a new case number, when Plaintiff has all three documents needed to file a
5 complete application to proceed *in forma pauperis*.

6 IT IS FURTHER ORDERED that the Clerk of the Court shall retain Plaintiff's civil
7 rights Complaint, ECF No. 1-2, but the Court will not file it at this time.

8 DATED: January 7, 2022

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UNITED STATES MAGISTRATE JUDGE
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