

1	UNITED STATES DISTRICT COURT	
2	DISTRICT OF NEVADA	
3	HAROLD E. MONTAGUE,	Case No. 2:22-cv-00034-RFB-VCF
4		ORDER
5	v.	
6	MAINWARNING, et al.	
7		Defendants
8		

9 I. DISCUSSION

10 On January 6, 2022, Plaintiff, an inmate in the custody of the Nevada Department
11 of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983 and
12 filed an application to proceed *in forma pauperis*. (ECF Nos. 1-1, 1). Plaintiff’s
13 application to proceed *in forma pauperis* is incomplete. Plaintiff has not submitted his
14 application on this Court’s approved form.

15 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin
16 a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil
17 action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the
18 inmate must submit all three of the following documents to the Court:

- 19 (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this
20 Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on
21 page 3),
- 22 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
23 official (i.e. page 4 of this Court’s approved form), and
- 24 (3) a copy of the **inmate’s prison or jail trust fund account statement for the**
25 **previous six-month period.**

26 Accordingly, the Court denies Plaintiff’s application to proceed *in forma pauperis*
27 (ECF No. 1) without prejudice because the application is incomplete. The Court will grant
28 Plaintiff a **one-time extension** to file a fully complete application to proceed *in forma*

1 *pauperis* containing all three of the required documents. Plaintiff will file a fully complete
2 application to proceed *in forma pauperis* on or before **March 11, 2022**. Absent unusual
3 circumstances, the Court will not grant any further extensions of time. If Plaintiff does not
4 file a fully complete application to proceed *in forma pauperis* with all three required
5 documents on or before **March 11, 2022**, this case will be subject to dismissal without
6 prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to acquire all
7 three of the documents needed to file a fully complete application to proceed *in forma*
8 *pauperis* or pays the full \$402 filing fee.

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*. Alternatively, Plaintiff
12 may choose not to file an application to proceed *in forma pauperis* and instead pay the
13 full filing fee of \$402 on or before **March 11, 2022** to proceed with this case.

14 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1) but the Court
15 will not file the complaint unless and until Plaintiff timely files a fully complete application
16 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

17 **II. CONCLUSION**

18 For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed
19 *in forma pauperis* (ECF No. 1) is denied without prejudice to file a new fully complete
20 application to proceed *in forma pauperis* with all three documents.

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

24 IT IS FURTHER ORDERED that on or before **March 11, 2022**, Plaintiff will either
25 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
26 administrative fee) or file with the Court:

27 (1) a completed Application to Proceed *in Forma Pauperis* for Inmate on this
28 Court's approved form (i.e. pages 1 through 3 of the form 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.

IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application to proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for a civil action on or before **March 11, 2022**, this case will be subject to dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case number, when Plaintiff has all three documents needed to file a complete application to proceed *in forma pauperis* or pays the the full \$402 filing fee.

IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint (ECF No. 1-1) but will not file it at this time.

DATED: 1-11-2022

Carl Becker

UNITED STATES MAGISTRATE JUDGE