

1
2
3
4
5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

7 ***

8 RAYMOND D. TAYLOR, JR.,

9 vs.
10 Plaintiff,

11 CORRECTIONAL OFFICER G. SANTOS,

12 Defendant.

Case No. 2:22-cv-01394-APG-VCF

ORDER

APPLICATION TO PROCEED IN FORMA PAUPERIS
(ECF No. 1)

13 Pro se plaintiff Raymond D. Taylor, Jr. filed an application to proceed in forma pauperis (ECF

14 No. 1) and complaint (ECF No. 1-1). I deny Taylor's in forma pauperis application without prejudice.

15 **DISCUSSION**

16 Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action "without prepayment of fees or
17 security thereof" if the plaintiff submits a financial affidavit that demonstrates the plaintiff "is unable to
18 pay such fees or give security therefor." If the plaintiff is a "prisoner" as defined by 28 U.S.C. § 1915(h),
19 as amended by the Prison Litigation Reform Act ("PLRA"), he remains obligated to pay the entire fee in
20 installments, regardless of whether his action is ultimately dismissed. See 28 U.S.C. § 1915(b)(1) & (2);
21 *Taylor v. Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002).

22 Under the PLRA, a prisoner seeking leave to proceed IFP must submit a "certified copy of the
23 trust fund account statement (or institutional equivalent) for the prisoner for the six-month period
24 immediately preceding the filing of the complaint." 28 U.S.C. § 1915(a)(2); *Andrews v. King*, 398 F.3d
25 1113, 1119 (9th Cir. 2005). From the certified trust account statement, the Court must assess an initial

1 payment of 20% of (a) the average monthly deposits in the account for the past six months, or (b) the
 2 average monthly balance in the account for the past six months, whichever is greater, unless the prisoner
 3 has no assets. See 28 U.S.C. § 1915(b)(1); 28 U.S.C. § 1915(b)(4). The institution having custody of the
 4 prisoner must collect subsequent payments, assessed at 20% of the preceding month's income, in any
 5 month in which the prisoner's account exceeds \$10, and forward those payments to the Court until the
 6 entire filing fee is paid. See 28 U.S.C. § 1915(b)(2).

7 Plaintiff is currently incarcerated. ECF No. 1 at 4. Plaintiff filed an affidavit, but he did not sign
 8 the declaration under penalty of perjury. *Id.* at 3. Plaintiff also did not file a certified copy of the trust
 9 fund account statement. Plaintiffs' application to proceed *in forma pauperis* is denied without prejudice.
 10 Since I deny plaintiff's IFP application, I do not screen his complaint now.

11 ACCORDINGLY,

12 I ORDER that plaintiff Taylor's application to proceed in forma pauperis (ECF No. 1) is
 13 DENIED without prejudice.

14 I FURTHER ORDER that by Wednesday, October 19, 2022, plaintiff must either (1) sign the
 15 declaration under penalty of perjury on a new IFP application and submit a certified copy of the trust
 16 fund account or (2) plaintiff must pay the full fee for filing a civil action.

18 **NOTICE**

19 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
 20 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
 21 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
 22 may determine that an appeal has been waived due to the failure to file objections within the specified
 23 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file
 24 objections within the specified time and (2) failure to properly address and brief the objectionable issues
 25

1 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
2 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
3 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Pursuant to LR IA 3-1, plaintiffs must immediately file written
4 notification with the court of any change of address. The notification must include proof of service upon
5 each opposing party's attorney, or upon the opposing party if the party is unrepresented by counsel.

6 **Failure to comply with this rule may result in dismissal of the action.**

7 IT IS SO ORDERED.

8 DATED this 19th day of September 2022.

9 
10 CAM FERENBACH
11 UNITED STATES MAGISTRATE JUDGE
12
13
14
15
16
17
18
19
20
21
22
23
24
25