

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Johnny Ray Foster v. NaphCare Incorporated, et al.

No. CV-26-00251-PHX-JAT (DMF) (D. Ariz. Feb. 2, 2026) · No. No. CV-26-00251-PHX-JAT (DMF) · Decided
February 2, 2026

OPINION

1 JL 2 WO 3 4 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE DISTRICT OF
ARIZONA 8 9 Johnny Ray Foster, No. CV-26-00251-PHX-JAT (DMF) 10 Plaintiff, 11 v. ORDER
12 NaphCare Incorporated, et al., 13 Defendants. 14 15 On January 14, 2026, Plaintiff Johnny Ray
Foster, who is confined in the Arizona 16 State Prison Complex-Lewis, filed a pro se civil rights
Complaint pursuant to 42 U.S.C. 17 § 1983.

Plaintiff did not pay the \$350.00 civil action filing fee and \$55.00 administrative 18 fee or file an
Application to Proceed In Forma Pauperis. The Court will give Plaintiff 30 19 days to either pay
the filing and administrative fees or file a complete Application to 20 Proceed In Forma Pauperis.
21 I. Payment of Filing Fee 22 When bringing an action, a prisoner must either pay the \$350.00
filing fee and a 23 \$55.00 administrative fee in a lump sum or, if granted the privilege of
proceeding in forma 24 pauperis, pay the \$350.00 filing fee incrementally as set forth in 28 U.S.C.
§ 1915(b)(1).

25 An application to proceed in forma pauperis requires an affidavit of indigence and a 26
certified copy of the inmate's trust account statement (or institutional equivalent) for the 27 six
months preceding the filing of the Complaint. 28 U.S.C. § 1915(a)(2). An inmate must 28 submit
statements from each institution where he was confined during the six-month 1 period.

Id. To assist prisoners in meeting these requirements, the Court requires use of a 2 form
application. LRCiv 3.4. 3 If a prisoner is granted leave to proceed in forma pauperis, the Court
will assess an 4 initial partial filing fee of 20% of either the average monthly deposits or the
average 5 monthly balance in Plaintiff's account, whichever is greater. 28 U.S.C. § 1915(b)(1).

An 6 initial partial filing fee will only be collected when funds exist. 28 U.S.C. § 1915(b)(4). 7
The balance of the \$350.00 filing fee will be collected in monthly payments of 20% of the 8
preceding month's income credited to an inmate's account, each time the amount in the 9 account
exceeds \$10.00. 28 U.S.C. § 1915(b)(2). 10 Because Plaintiff has not paid the \$405.00 filing and
administrative fees or filed an 11 Application to Proceed In Forma Pauperis, the Court will give
Plaintiff 30 days from the 12 filing date of this Order to submit a properly executed and certified
Application to Proceed 13 In Forma Pauperis, using the form included with this Order, or pay the
\$405.00 filing and 14 administrative fees.

15 The Arizona Department of Corrections, Rehabilitation & Reentry (ADC) has 16 notified the Court that a certified trust fund account statement showing deposits and 17 average monthly balances is available from the ADC's Central Office.

Accordingly, 18 Plaintiff must obtain the certified copy of his ADC trust fund account statement for the six 19 months immediately preceding the filing of the Complaint from the ADC's Central Office. 20 Plaintiff should be aware that Department Order (DO) 905.10 relates to "Filing 21 Lawsuits with State and Federal Courts" and provides information regarding how to 22 properly request the required "certified statement of account." Specifically, DO 905.10 23 states: 24 10.1 To request a certified statement of account, inmates shall send an Inmate Letter, to their Business Office 25 where they are housed.

The Business Office designee 26 shall scan and email the Inmate Letter to the Central Office ITA staff. 27 10.2 Within five workdays of receiving the Inmate Letter, 28 Central Office ITA staff shall process the request and generate an email with the signed certified statement, 1 and a memo of instructions to the corresponding 2 Business Office. 3 10.3 The Business Office staff shall process and document the request in accordance with the Unit Certified 4 Statement Procedure.

The signed Inmate Letter is 5 authorization to charge the inmate for the Certified Statement. 6 10.3.1 Inmates shall incur a charge \$0.25 per page. 7 A notice shall be sent to the Business Manager to collect the fee. If funds are not 8 available, the inmate's Spendable Account 9 shall be placed on hold for the amount. 10 10.4 The inmate shall present the completed form "Application to Proceed in Forma Pauperis" and the 11 certified statements to their assigned Correctional 12 Officer III for certification.

The certified application shall be returned to the inmate who is responsible for 13 filing a petition with the court. The application shall not 14 be certified by the unit's Business Office. 15 II. Warnings 16 A. Address Changes 17 Plaintiff must file and serve a notice of a change of address in accordance with Rule 18 83.3(d) of the Local Rules of Civil Procedure.

Plaintiff must not include a motion for other 19 relief with a notice of change of address. Failure to comply may result in dismissal of this 20 action. 21 B. Possible Dismissal 22 If Plaintiff fails to timely comply with every provision of this Order, including these 23 warnings, the Court may dismiss this action without further notice. See *Ferdik v. Bonzelet*, 24 963 F.2d 1258, 1260-61 (9th Cir.

1992) (a district court may dismiss an action for failure 25 to comply with any order of the Court). 26 IT IS ORDERED: 27 (1) Within 30 days of the date this Order is filed, Plaintiff must either pay the 28 \$350.00 filing fee and \$55.00 administrative fee or file a complete Application to Proceed 1 | In Forma Pauperis and a certified six-month trust account statement (or institutional equivalent).

3 (2) If Plaintiff fails to either pay the \$350.00 filing fee and \$55.00 administrative fee or file a complete Application to Proceed In Forma Pauperis within 30 days, the Clerk 5| of Court must enter a judgment of dismissal of this action without prejudice and without 6| further notice to Plaintiff and deny any pending unrelated motions as moot. 7 (3) The Clerk of Court must mail Plaintiff a court-approved form for filing an 8 | Application to Proceed In Forma Pauperis (Non-Habeas).

9 Dated this 2nd day of February, 2026. 10 12 B _ James A. Teil Org Senior United States District Judge 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Instructions for Prisoners Applying for Leave to Proceed In Forma Pauperis Pursuant to 28 U.S.C. § 1915 in a Civil Action (Non-habeas) in Federal Court You must pay the \$350.00 filing fee plus the \$55.00 administrative fees for a civil action.

If you later file an appeal, you will be obligated to pay the \$505.00 filing fee for the appeal. If you have enough money to pay the full \$405.00 filing and administrative fees, you should send a cashier=s check or money order payable to the Clerk of the Court with your complaint. If you do not have enough money to pay the full \$405.00 filing and administrative fees, you can file the action without prepaying the fees.

However, the Court will assess an initial partial filing fee. The initial partial filing fee will be the greater of 20% of the average monthly deposits or 20% of the average monthly balance in your prison or jail account for the six months immediately preceding the filing of the lawsuit.

The Court will order the agency that has custody of you to withdraw the initial partial filing fee from your prison or jail account as soon as funds are available and to forward the money to the Court. After the initial partial filing fee has been paid, you will owe the balance of the \$350.00 filing fee (you will not be required to pay the \$55.00 administrative fee).

Until the filing fee is paid in full, each month you will owe 20% of your preceding month=s income. The agency that holds you in custody will collect that money and forward it to the Court any time the amount in your account exceeds \$10.00. These installment fees are calculated on a per-case basis. This means that you will be required to pay 20% of your preceding month=s income for each civil non-habeas corpus case in which you have an outstanding filing fee balance.

For example, if you are making payments toward filing fee balances in two civil non-habeas corpus cases, 40% of your preceding month=s income will be collected each month. The balance of the filing fee may be collected even if the action is later dismissed, summary judgment is granted against you, or you fail to prevail at trial.

To file an action without prepaying the filing fee, and to proceed with an action in forma pauperis, you must complete the attached form and return it to the Court with your complaint. You must

have a prison or jail official complete the certificate on the bottom of the form and attach a certified copy of your prison or jail account statement for the last six months.

If you were incarcerated in a different institution during any part of the past six months, you must attach a certificate and a certified copy of your account statement from each institution at which you were confined. If you submit an incomplete form or do not submit a prison or jail account statement with the form, your request to proceed in forma pauperis will be denied.

Even if some or all of the filing fee has been paid, the Court is required to dismiss your action if: (1) your allegation of poverty is untrue; (2) the action is frivolous or malicious; (3) your complaint does not state a claim upon which relief can be granted; or (4) your complaint makes a claim against a defendant for money damages and that defendant is immune from liability for money damages.

If you file more than three actions or appeals which are dismissed as frivolous or malicious or for failure to state a claim on which relief can be granted, you will be prohibited from filing any other action in forma pauperis unless you are in imminent danger of serious physical injury.

_____ Name and Prisoner/Booking Number
 _____ Place of Confinement
 _____ Mailing Address
 _____ City, State, Zip Code IN THE UNITED
 STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA
 _____, CASE NO.
 _____ Plaintiff, APPLICATION TO PROCEED v. IN
 FORMA PAUPERIS BY A PRISONER _____, CIVIL
 (NON-HABEAS) Defendant(s).

I, declare, in support of my request to proceed in the above entitled case without prepayment of fees under 28 U.S.C. § 1915, that I am unable to pay the fees for these proceedings or to give security therefor and that I believe I am entitled to relief.

In support of this application, I answer the following questions under penalty of perjury: 1. Have you ever before brought an action or appeal in a federal court while you were incarcerated or detained? GYes GNo If "Yes," how many have you filed?. Were any of the actions or appeals dismissed because they were frivolous, malicious, or failed to state a claim upon which relief may be granted?

GYes GNo If “Yes,” how many of them?. 2. Are you currently employed at the institution where you are confined? GYes GNo If “Yes,” state the amount of your pay and where you work. 3. Do you receive any other payments from the institution where you are confined? GYes GNo If “Yes,”

state the source and amount of the payments. 1 4. Do you have any other sources of income, savings, or assets either inside or outside of the institution where you are confined?

GYes GNo If “Yes,” state the sources and amounts of the income, savings, or assets. I declare under penalty of perjury that the above information is true and correct.

DATE SIGNATURE OF APPLICANT ACKNOWLEDGEMENT OF COLLECTION OF FILING FEES FROM TRUST ACCOUNT I,, acknowledge that upon granting this Application, the Court will order designated correctional officials at this institution, or any other correctional institution to which I am transferred, to withdraw money from my trust account for payment of the filing fee, as required by 28 U.S.C. § 1915(b).

The Court will require correctional officials to withdraw an initial partial payment equal to 20% of the greater of: (A) the average monthly deposits to my account for the six-month period preceding my filing of this action, or (B) the average monthly balance in my account for the six-month period preceding my filing of this action.

After the initial payment, if the amount in my account is at least \$10.00, the Court will require correctional officials to withdraw from my account 20% of each month’s income and forward it to the Court until the required filing fee is paid in full. I understand that I am required to pay the entire fee, even if my case is dismissed by the Court before the fee is fully paid.

I further understand that if I file more than one action, correctional officials will be ordered to withdraw 20% of each month’s income, for each action, simultaneously. Accordingly, if I have filed two actions, correctional officials will withdraw 40% of my income each month; three actions will require 60% of my income each month, etc. _____

_____ DATE SIGNATURE OF APPLICANT
CERTIFICATE OF CORRECTIONAL OFFICIAL AS TO STATUS OF APPLICANT=S TRUST ACCOUNT I,, certify that as of the date applicant signed this application: (Printed name of official) The applicant=s trust account balance at this institution is: \$ The applicant=s average monthly deposits during the prior six months is: \$ The applicant=s average monthly balance during the prior six months is: \$ The attached certified account statement accurately reflects the status of the applicant=s account.

DATE AUTHORIZED SIGNATURE TITLE/ID NUMBER INSTITUTION