

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION

SAM J. PEARSON, IV,  
Plaintiff,

vs.

Case No. 3:10cv390/LAC/MD

CORRY FLEETION,  
Defendant.

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ORDER

On January 24, 2011, this court entered a recommendation that plaintiff's case be dismissed due to his failure to comply with an order of the court issued on October 20, 2010, and his failure to provide the court with a current address for over 90 days following his release from custody. (Doc. 6). Two and a half weeks after this recommendation was entered, plaintiff has now finally submitted a letter to the clerk indicating his new address.<sup>1</sup> (Doc. 8). Plaintiff has also moved for an extension of time in which to comply with the court's order. (Doc. 9). In the interest of justice, the court's recommendation that this case be dismissed will be vacated, and plaintiff will be granted a thirty-day extension of time in which to comply with the court's October 20, 2010 order (Doc. 4).

Accordingly, it is **ORDERED**:

1. The court's recommendation entered on January 24, 2011 (Doc. 6) is hereby **VACATED**.
2. Plaintiff's motion for extension of time (Doc. 9) is **GRANTED**.
3. Plaintiff's previously-filed motion to proceed *in forma pauperis* (Doc. 2) is **DENIED** without prejudice for the reasons outlined in the court's October 20, 2010 order.

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<sup>1</sup>Although plaintiff states he filed a notice of change of address on November 10, 2010, the notice he filed was in Case No. 3:10cv348/MCR/EMT, not this case. (Doc. 9, Ex. A).

4. The clerk is directed to send plaintiff a copy of the court's October 20, 2010 order (Doc. 4) that was returned as undeliverable. The clerk shall also send plaintiff a § 1983 complaint form for use by prisoners<sup>2</sup> and a form application for use by non-prisoners to seek leave to proceed *in forma pauperis*.<sup>3</sup> This case number shall be written on the forms.

5. Within **thirty (30) days** of the date of this order, plaintiff shall file an amended complaint which shall be typed or clearly written, and submitted on the court form. Within the same time period, plaintiff shall submit payment in the amount of \$350.00, or file a complete application to proceed *in forma pauperis* on the court form.

6. Plaintiff's failure to comply with this order as instructed will result in a recommendation that this case be dismissed for failure to comply with an order of the court.

7. Plaintiff is advised that a future failure to promptly apprise the court of a change of address will result in a recommendation that this case be dismissed.

**DONE AND ORDERED** this 15<sup>th</sup> day of February, 2011.

*/s/ Elizabeth M. Timothy* \_\_\_\_\_

**ELIZABETH M. TIMOTHY**  
**UNITED STATES MAGISTRATE JUDGE**

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<sup>2</sup> Plaintiff was incarcerated when he initiated this action; therefore, with respect to the appropriate complaint form to be used, this action is to be treated as a prisoner case. See also Pearson v. Escambia County Jail, Case No. 3:10cv380/MCR/EMT (Doc. 14) (advising Plaintiff that his status at the time he initiates an action determines whether a case is construed as having been filed by a "prisoner" or "non-prisoner").

<sup>3</sup> Because Plaintiff is not presently incarcerated, the appropriate form to request leave to proceed in forma pauperis is the form for use by non-prisoners.