

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIC DOWDY-EL, AVERIS X. WILSON,
JAMES HOLLY, MUJAHID LATIF,

Plaintiffs,

v.

Case No. 06-11765

PATRICIA L. CARUSO,

HONORABLE AVERN COHN

Defendant.

ORDER REGARDING PAYMENT OF FILING FEE

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiffs generally claim that defendants' policies discriminate against them on the basis of their religion. The complaint is signed and dated April 3, 2006.¹ The complaint, together with a check for \$250.00, was received by the Court on April 12, 2006. On that day, the Clerk's Office sent plaintiffs a "Notice of Returning Civil Rights Complaint" on the grounds that the filing fee had increased to \$350.00. The Notice gave plaintiffs ten (10) days in which to submit the correct filing fee. Plaintiffs say they received the Notice on April 17, 2006.

On April 19, 2006, plaintiff signed and dated the instant "Request for an Extension of Time to Submit Full Payment of the Court Filing Fee," stating that they were unaware of the filing fee increase and asking until May 15, 2006 in which to submit the \$350.00. This "Request" was received by the Court on April 24, 2006.

¹Also included with the complaint is a motion for class certification and a motion for appointment of counsel.

Plaintiffs' request is unnecessary. On March 20, 2006, the Clerk's Office issued a "Notice of Increase in Filing Fees," stating that as of Sunday, April 9, 2006, the civil filing fee would increase from \$250.00 to \$350.00. Under the prison mailbox rule of Houston v. Lack, 487 U.S. 266 (1988), a habeas petition is considered filed when it is given to a prison official for mailing. This rule has been applied to other prisoner filings. See McGore v. Wrigglesworth, 114 F.3d 601, 605 (6th Cir. 1997) (holding the mailbox rule applies to motion for extension of time to correct filing deficiency in a § 1983 action) As stated above, plaintiffs signed and dated the complaint on April 3, 2006, which is presumed to be the date it was given to prison officials for filing. Under the prison mailbox rule, which the Court finds applicable, the complaint is deemed "filed" on April 3, 2006 - prior to the date the increase took effect. As such, the filing fee is \$250.00.

Accordingly, plaintiffs shall submit \$250.00 no later than May 15, 2006. The Clerk is directed to accept plaintiffs' check as constituting the proper filing fee in this case.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: April 25, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, April 25, 2006, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager
(313) 234-5160