

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

ANGELINA GOMEZ,

Petitioner,

v.

Civil No. 2:07-CV-12505  
HONORABLE ARTHUR J. TARNOW  
UNITED STATES DISTRICT JUDGE

SUSAN DAVIS,

Respondent,

/

**OPINION AND ORDER OF SUMMARY DISMISSAL**

Angelina Gomez, (“Petitioner”), presently confined in the Huron Valley Women’s Complex in Ypsilanti, Michigan, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 14, 2007, Magistrate Judge R. Steven Whalen signed an “Order to Correct Deficiency,” in which Petitioner was ordered to submit a \$ 5.00 fee for filing a habeas corpus petition or an application to proceed *in forma pauperis* within twenty one days of the order. For the reasons stated below, Petitioner’s action is dismissed without prejudice because of Petitioner’s failure to comply with an order of the court.

**I. Discussion**

Petitioner’s application is subject to dismissal, because she failed to comply with the order of deficiency by either submitting the \$ 5.00 filing fee or an application to proceed *in forma pauperis*.

*Gomez v. Davis*, 2:07-12505

If a prisoner who seeks habeas corpus relief does not comply with a district court's directions in a deficiency order, regarding the prisoner's failure to pay the full filing fee and his failure to provide the required documentation to apply to proceed *in forma pauperis*, the district court must presume that the prisoner is not a pauper, assess the full filing fee, and dismiss the case for want of prosecution. See *Gravitt v. Tyszkiewicz*, 14 Fed. Appx. 348, 349 (6<sup>th</sup> Cir. 2001)(citing *McGore v. Wrigglesworth*, 114 F. 3d 601, 605 (6<sup>th</sup> Cir. 1997)). The deficiency order clearly stated that Petitioner was required to submit either the \$ 5.00 filing fee or an application to proceed *in forma pauperis*. The deficiency order also expressly warned Petitioner that failure to comply with the order could result in the dismissal of his action. Because Petitioner failed to pay the filing fee or submit the required application to proceed *in forma pauperis*, her petition is subject to dismissal for want of prosecution. *Gravitt*, 14 Fed. Appx. at 349.

## II. ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is DISMISSED WITHOUT PREJUDICE. Nothing in this order precludes Petitioner from submitting a new habeas petition with payment of the filing fee or the *in forma pauperis* application.

s/Arthur J. Tarnow

**HON. ARTHUR J. TARNOW  
UNITED STATES DISTRICT JUDGE**

Dated: 8/9/07