

**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 VACATING THE ORDER OF SUMMARY DISMISSAL
AND DIRECTING PETITIONER TO CORRECT THE DEFICIENCY**

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. On August 9, 2007, this Court dismissed Petitioner's action dismissed without prejudice because of Petitioner's failure to comply with an order of the court. It has now come to the Court's attention that the original order of deficiency signed by Magistrate Judge Whalen was never sent by the Clerk's office to Petitioner. Accordingly, the Court will vacate the Opinion and Order of Summary Dismissal dated August 9, 2007 and reinstate the habeas petition to the Court's active docket.

Gomez v. Davis, 2:07-12505

Petitioner, however, failed to submit either the \$5.00 filing fee or an application to proceed *in forma pauperis*, as required by 28 U.S.C. § 1914(a); 28 U.S.C. § 1915; Rule 3 of the Rules Governing § 2254 Cases. Accordingly, Petitioner shall submit either the \$5.00 filing fee or an original and one copy of a completed, signed and dated application to proceed *in forma pauperis* within **30 days of this order**. Failure to do so may result in dismissal of this action. See *Gravitt v. Tyszkiewicz*, 14 Fed. Appx. 348, 349 (6th Cir. 2001). A copy of the *in forma pauperis* application is attached.

ORDER

Based upon the foregoing, the Opinion and Order of Summary Dismissal dated August 9, 2007 is VACATED and the Petition for Writ of Habeas Corpus is reinstated to the active docket.

IT IS FURTHER ORDERED THAT Petitioner shall submit either the \$5.00 filing fee or an original and one copy of a completed, signed and dated application to proceed *in forma pauperis* within **30 days of this order**.

S/Arthur J. Tarnow

Arthur J. Tarnow
United States District Judge

Dated: August 15, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 15, 2007, by electronic and/or ordinary mail.

S/Catherine A. Pickles

Judicial Secretary