

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTOINE HARRIS, *et al.*,

Plaintiffs,

vs.

DENISE GERTH, *et al.*,

Defendants.

Case No. 08-12374

Robert H. Cleland
United States District Judge

Michael Hluchaniuk
United States Magistrate Judge

**ORDER GRANTING PLAINTIFF GORDON AN
ENLARGEMENT OF TIME TO FILE APPLICATION FOR
LEAVE TO PROCEED *IN FORMA PAUPERIS*, AFFIDAVIT
OF INDIGENCE, AND TRUST FUND ACCOUNT STATEMENT**

This is a civil rights action filed under 42 U.S.C. § 1983 by multiple plaintiffs who are in the custody of the Michigan Department of Corrections. (Dkt. 1). At the time they filed the petition, plaintiffs did not pay the filing fee nor did they file individual applications to proceed *in forma pauperis* as required by 28 U.S.C. § 1915(a). On June 19, 2008, pursuant to 28 U.S.C. § 1915(a), District Judge Robert H. Cleland issued an Order allowing 30 days for each plaintiff to file a motion to proceed *in forma pauperis*, affidavit of indigence, and a certified copy of the prisoner's trust fund account statement for the preceding six months. (Dkt. 4) (June 19, 2008 Order). On August 6, 2008, Judge Cleland issued an Order

dismissing certain plaintiffs for failing to comply with the June 19, 2008 Order and granting *in forma pauperis* status to the plaintiffs who complied with the June 19, 2008 Order. (Dkt. 36). This case was referred, for all pre-trial matters, to the undersigned Magistrate Judge on August 14, 2008. (Dkt. 40).

Plaintiff Gordon filed a letter dated August 13, 2008, in which he states that he submitted the required motion to proceed *in forma pauperis* and supporting documents to prison officials for mailing on July 7, 2008, but that he was not granted *in forma pauperis* status in Judge Cleland's August 6, 2008 Order. (Dkt. 61). The Court has no record of having received plaintiff Gordon's motion to proceed *in forma pauperis* or the supporting documents. The Court finds plaintiff Gordon's detailed account of completing the motion to proceed *in forma pauperis*, obtaining the necessary supporting documents, and submitting the package to a prison official for mailing, to be credible. However, because the motion was never received and docketed by the Court, the Court may not rule on the motion. Therefore, the Court will grant plaintiff Gordon an additional 30 days to submit the required materials.

Accordingly, the time for plaintiff Gordon to submit a motion for *in forma pauperis* status, affidavit of indigence, and a certified copy of his trust fund account statement for the preceding six months is enlarged by 30 days. Plaintiff

Gordon must submit these materials within 30 days from the date of this Order.

IT IS SO ORDERED.

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not thereafter assign as error any defect in this Order to which timely objection was not made.

Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Date: September 2, 2008

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on September 2, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: Christine M. Campbell. I also certify that I have mailed, by United States Postal Service, the foregoing paper to the following non-ECF participants**:

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Andy Anderson, # 494273

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Andre Coleman, # 173324**

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** Plaintiffs, Andre Coleman, Eugene Humbert, and James Lindsey are being served at both the address reflected on the Court's docket and the address reflected on the Michigan Department of Corrections prisoner tracking system website.

s/James P. Peltier
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