

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

VIRGIL MITCHELL,

Plaintiff,

v.

PATRICIA CARUSO, et. al.

Defendants.

Civil Case No. 09-11467  
HONORABLE AVERN COHN

**OPINION AND ORDER OVERRULING OBJECTION TO THE ORDER  
DIRECTING PLAINTIFF TO PROVIDE ADDITIONAL COPIES AND  
DIRECTING PLAINTIFF TO CURE THE DEFICIENCY**

Now before the Court is Plaintiff Virgil Mitchell's pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983. Plaintiff is an inmate currently confined at the Cotton Correctional Facility in Jackson, Michigan. On April 23, 2009, Magistrate Judge R. Steven Whalen signed an order directing plaintiff to provide the Court with eleven additional copies of his complaint in order to effect proper service upon the Defendants. Plaintiff was given thirty days to respond to the order. To date, Plaintiff has not complied with the order.

On May 6, 2009, Plaintiff filed a paper entitled "Objection to Order for Service," which in actuality, is an objection to the order directing him to provide additional copies of the complaint for service upon the defendants. Plaintiff says that because he has been granted in forma pauperis status, he should be excused from having to make additional copies of the complaint due to his indigency.

An inmate bringing a civil rights complaint must specifically identify each defendant against whom relief is sought, and must give each defendant notice of the action by serving

upon him or her a summons and copy of the complaint. Feliciano v. DuBois, 846 F. Supp. 1033, 1048 (D. Mass. 1994). Where a plaintiff is proceeding in forma pauperis, the district court has the responsibility for issuing the plaintiff's process to the United States Marshal's Office, who must effect service upon the defendants once the plaintiff has properly identified the defendants in the complaint. Williams v. McLemore, 10 Fed. Appx. 241, 243 (6<sup>th</sup> Cir. 2001); Byrd v. Stone, 94 F. 3d 217, 219 (6<sup>th</sup> Cir. 1996); Fed. R. Civ. P. 4(c)(2); 28 U.S.C. § 1915(d). A plaintiff's failure to comply with a magistrate judge's order to provide the requested copies needed to effect service upon the defendants may lead to the dismissal of the complaint for want of prosecution. See Erby v. Kula, 113 Fed. Appx. 74, 75-6 (6<sup>th</sup> Cir. 2004); Davis v. United States, 73 Fed. Appx. 804, 805 (6<sup>th</sup> Cir. 2003).

Under Fed. R. Civ. P. 4(c)(1), it is the plaintiff's responsibility to furnish a sufficient number of copies for service. Although Plaintiff claims that his indigency prevents him from making copies of the complaint, the Michigan Department of Corrections (MDOC) has a policy regarding the copying of court papers, whereby an inmate's prison account is debited for the cost. See Laster v. Pramstaller, No. 2009 WL 482701, \*1 (E.D. Mich. Feb. 25, 2009). In addition, Plaintiff does not say that he has requested the prison where he is in custody to copy his papers, pursuant to that MDOC policy. Id. Accordingly, the Court must deny Plaintiff's objection to the order directing him to provide the Court with additional copies. Plaintiff has thirty days from the date of this order to cure the deficiency by providing the eleven additional copies of the complaint for service upon the defendants.

**ORDER**

IT IS ORDERED that Plaintiff's objection to the order directing him to provide additional copies, entitled "Objection for Order for Service" [dkt. 5] is OVERRULED. Plaintiff shall have thirty (30) days from the date of this order to cure the deficiency and provide eleven additional copies of the complaint for service upon the defendants. Failure to file the required copies may result in dismissal of the complaint.

s/ Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: May 19, 2009

I hereby certify that a copy of the foregoing document was mailed to Virgil Mitchell 349178, G. Robert Cotton Correctional Facility, 3500 N. Elm Road, Jackson, MI 49201 on this date, May 19, 2009, by electronic and/or ordinary mail.

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