

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TRACY AUGUST, #714643,

Plaintiff,

Civil Action No. 12-13775

Honorable Patrick J. Duggan

Magistrate Judge David R. Grand

v.

PATRICIA CARUSO, *et al.*,

Defendants.

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**ORDER GRANTING PLAINTIFF'S MOTION TO  
CORRECT THE FILING DATE OF HER COMPLAINT [36]**

The Court's docket reflects that, on August 27, 2012, *pro se* Plaintiff Tracy August ("August") filed her complaint in the instant case. On January 8, 2013, the District Court entered an Opinion and Order of Partial Summary Dismissal, dismissing August's claims against several of the named defendants. (Doc. #6). An Order of Reference was entered on April 1, 2013, referring all pretrial matters to the undersigned pursuant to 28 U.S.C. §636(b). (Doc. #25).

On May 15, 2013, August filed a pleading entitled "Motion to Correct Plaintiff's 42 U.S.C. §1983 True Filing Date of August 21, 2012." (Doc. #36). In her motion, August asserts that she gave her complaint to prison staff at the Women's Huron Valley Complex for filing on August 21, 2012. (*Id.* at ¶2). As proof of this fact, August attaches an Expedited Legal Mail receipt, which – although extremely difficult to read – appears to show that August's complaint was in fact received by the prison staff at 8:50 a.m. on August 21, 2012. (Doc. #37 at 2-4). No response was filed to this motion; thus, the Court has been presented with no contrary evidence.

Pursuant to the "prisoner mailbox rule," a *pro se* prisoner's complaint "is deemed filed when it is handed over to prison officials for mailing to the court." *Brand v. Motley*, 526 F.3d 921, 925 (6th Cir. 2008) (citing cases); *see also Scuba v. Brigano*, 527 F.3d 479, 484 (6th Cir.

2007); *Stewart v. Gracik*, 2011 WL 4559179, at \*3 (W.D. Mich. Aug. 26, 2011). In this case, then, August's complaint should be deemed filed on August 21, 2012 – the date on which she handed it over to prison staff for mailing – not August 27, 2012, the date on which the Court apparently received it.

For the foregoing reasons, the Court **GRANTS** Plaintiff's Motion to Correct the Filing Date of her Complaint (Doc. #36). The docket shall be modified to reflect that Plaintiff's complaint was filed on August 21, 2012.

**IT IS SO ORDERED.**

Dated: September 19, 2013  
Ann Arbor, Michigan

s/David R. Grand  
DAVID R. GRAND  
United States Magistrate Judge

**NOTICE TO PARTIES REGARDING OBJECTIONS**

The parties' attention is drawn to Fed. R. Civ. P. 72(a), which provides a period of fourteen (14) days from the date of receipt of a copy of this order within which to file objections for consideration by the district judge under 28 U.S. C. §636(b)(1).

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on September 19, 2013.

s/Deborah J. Goltz for Felicia M. Moses  
FELICIA M. MOSES  
Case Manager