

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**MICHAEL LAYTON,**

Plaintiff,

vs.

**MDOC,**

Defendant.

2:20-cv-13428-TGB-KGA

HON. TERRENCE G. BERG

**ORDER DIRECTING  
PLAINTIFF TO PREPAY THE  
FILING FEE OR TO APPLY  
FOR PERMISSION TO  
PROCEED *IN FORMA  
PAUPERIS***

This matter initially came before the Court on plaintiff Michael Layton's handwritten letter in which he seeks compassionate release from a state prison. ECF No. 1. Plaintiff failed to pay the filing fee or to apply for leave to proceed without prepaying the fee, and he did not respond to the magistrate judge's order regarding the deficiency. Nevertheless, because it appears that Plaintiff may not have received the magistrate judge's order, the Court will direct Plaintiff to prepay the applicable fees or to apply for permission to proceed without prepaying the fees.

## I. BACKGROUND

Plaintiff Michael Layton is a state prisoner at the G. Robert Cotton Correctional Facility (“JCF”) in Jackson, Michigan. On December 21, 2020, he mailed his handwritten letter to the Clerk of this Court. *See* ECF No. 1, PageID.7. On January 7, 2021, the Clerk’s Office received the letter, *see id.*, and on January 19, 2021, a deputy clerk docketed the letter as a new civil rights complaint with a filing date of December 21, 2020. *See* docket entry for December 21, 2020.

In his letter, Layton alleges that the coronavirus known as COVID-19 is especially dangerous for individuals with pre-existing respiratory and auto-immune deficiencies. ECF No. 1, PageID.1. He claims to be at risk of being infected with COVID-19 because he has multiple chronic health conditions. *Id.* at PageID.2.

Layton further alleges that five prisoners in his unit at JCF tested positive for COVID-19, and that on November 9, 2020, an off-site appointment to have his heart pacemaker examined was postponed due to a quarantine at JCF. *Id.* at PageID.3. After the quarantine was lifted, Layton asked to have his pacemaker examined, but only cancer patients were permitted to leave the prison. *Id.* Layton argues that compassionate

release from prison is warranted in his case because he cannot get the medical help he needs. *Id.* at PageID.4.

## II. DISCUSSION

Layton did not pay the filing fee for his case. Nor did he apply for permission to proceed without prepaying the fees and costs for this action. Therefore, on January 26, 2021, United States Magistrate Judge R. Steven Whalen ordered Layton to pay the filing and administrative fees or to apply for permission to proceed without prepaying the fees. ECF No. 4. Magistrate Judge Whalen advised Layton that failure to do so within thirty days could result in the dismissal of this case. *Id.*

Layton has not complied with Magistrate Judge Whalen's order, but on January 27, 2021, he notified the Court of a change in his address. ECF No. 5. The new address is his home address in Redford, Michigan. *See id.* The notice, however, was mailed from JCF, and public records maintained by the Michigan Department of Corrections indicate that Layton remains incarcerated at JCF.<sup>1</sup> It, therefore, appears to the Court that Layton merely wants the Court to use his home address as his mailing address.

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<sup>1</sup> See <https://mdocweb.state.mi.us/OTIS2/otis2profile.aspx?mdocNumber=197212>.

It is also possible that Layton did not receive Magistrate Judge Whalen's deficiency order. Accordingly, the Court orders Layton **either** to pay the filing fee of \$350.00 plus an administrative fee of \$52.00 to the Clerk of this Court **or** to apply for permission to proceed without prepaying the fees and costs for this lawsuit.

The Court is enclosing the necessary form for Plaintiff Layton to complete and return if he is unable to prepay the filing and administrative fees. Layton must attach to the form a certified statement of his trust fund account at JCF for the previous six months.

After receipt of the fees or a proper application to proceed without prepaying the fees, the Court will screen Plaintiff Layton's initial letter, or any amended complaint that he may wish to file, pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A. Failure to comply with this order within **thirty (30) days** of the date of this order could result in the dismissal of this case. This Order only will be served on Plaintiff Layton at the G. Robert Cotton Correctional Facility and at the Redford, Michigan address identified by Plaintiff as his current mailing address at ECF No. 5, PageID.12. All further docket entries in this matter will be served on Plaintiff Layton only at the Redford, Michigan address listed on the

docket unless Plaintiff notifies the Court of a subsequent change of address.

**SO ORDERED** this 22nd day of December, 2021.

BY THE COURT:

/s/Terrence G. Berg

TERRENCE G. BERG

United States District Judge