

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DAVID S. HASTINGS,

Plaintiff,

v.

Case No: 2:18-cv-510-FtM-99CM

JOSHUA J. ROSENBERG,

Defendant.

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**ORDER**

This matter comes before the Court upon review of the Motion for Extension of Time, also construed as a Motion for Clarification, filed on November 7, 2018. Doc. 7. Plaintiff seeks an unspecified extension of time to file an amended complaint. *Id.* at 2. Plaintiff also requests the Clerk of Court send Plaintiff a copy of the original Complaint “to facilitate the Ordered filing of an Amended Complaint” and seeks clarification of the Court’s Order denying without prejudice Plaintiff’s motion to proceed *in forma pauperis*. *Id.*; see Doc. 6. For the reasons stated herein, Plaintiff’s requests will be granted.

The Court may extend any deadline for “good cause” if the request is made before the original time or the extension expires. Fed. R. Civ. P. 6(b)(1)(A). Here, Plaintiff indicates his “legal box,” which contained “some five thousand pages of documents, including the Complaint and Demand for Jury Trial in the immediate case,” was lost when he was transferred from Liberty Correctional Institution in Bristol, Florida to Everglades Correctional Institution in Miami, Florida. Doc. 7 at

1-2. Therefore, the Court finds good cause to extend the time for Plaintiff to file an amended complaint by two (2) weeks. Relatedly, the Court will direct the Clerk to send Plaintiff a copy of the Complaint.

Insofar as Plaintiff seeks clarification of the October 15, 2018 Order, Plaintiff's request to proceed *in forma pauperis* was denied without prejudice. *See* Doc. 6. When considering a motion to proceed *in forma pauperis* filed under 28 U.S.C. § 1915, the Court must evaluate both the Plaintiff's economic eligibility and the sufficiency of the complaint. *See* 28 U.S.C. § 1915(a)(1), (e)(2)(B). Although the Court found Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs as well as his Prisoner Consent Form and Financial Certificate demonstrated Plaintiff satisfies the *economic* requirements to proceed *in forma pauperis*, Plaintiff's Complaint failed to state a claim upon which relief could be granted, as explained in Part II of the October 15, 2018 Order. *See generally* Doc. 6. Accordingly, the Court could not grant Plaintiff *in forma pauperis* status based on the original Complaint and directed Plaintiff to file an amended complaint consistent with the directives set forth in the Order. *See id.* at 7; *see also* § 1915(e)(2)(B).

ACCORDINGLY, it is

**ORDERED:**

1. The Motion for Extension of Time, also construed as a Motion for Clarification (Doc. 7), is **GRANTED**. Plaintiff shall have up to and including **November 28, 2018** to file an amended complaint consistent with the directives set

forth in the October 15, 2018 Order. Failure to file an amended complaint within this time period may result in the Court recommending this action be dismissed.

2. The Clerk is directed to mail Plaintiff a copy of the original Complaint (Doc. 1) in conjunction with this Order.

**DONE** and **ORDERED** in Fort Myers, Florida on this 8th day of November, 2018.



CAROL MIRANDO  
United States Magistrate Judge

Copies:  
Counsel of record  
*Pro se* parties