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for the Third Circuit

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3-12-2009

## Gidget Mock v. Northampton Cty

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 08-2463

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GIDGET MOCK,  
Appellant

v.

NORTHAMPTON COUNTY, ET AL.

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On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
(D.C. Civil No. 08-cv-00183)  
District Judge: Honorable Petrese B. Tucker

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Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B)  
or Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6  
January 29, 2009

Before: MCKEE, FISHER and CHAGARES, Circuit Judges

(Opinion filed: March 12, 2009)

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OPINION

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PER CURIAM

Gidget Mock appeals pro se from the order of the United States District Court for the Eastern District of Pennsylvania denying her motion for leave to proceed in forma pauperis (“IFP”). We will vacate the District Court’s order and remand for further

proceedings.

On January 10, 2008, Mock submitted her IFP application to the District Court. In her affidavit, she stated that her monthly wages totaled \$1,020.00, that she had \$100.00 in a checking or savings account, and that she owned a 2000 Toyota valued at \$11,500.00. In addition, she has three children who depend upon her for support. By order entered April 14, 2008, the District Court denied the motion without explanation.<sup>1</sup> Mock appealed, arguing that the District Court erred because she financially qualifies for IFP status. Mock has been granted leave to proceed in forma pauperis on appeal.

We have jurisdiction under 28 § U.S.C. 1291, see Redmond v. Gill, 352 F.3d 801, 803 (3d Cir. 2003), and we review the District Court's ruling for abuse of discretion, see United States v. Holiday, 436 F.2d 1079, 1079 (3d Cir. 1971). IFP determinations generally are made solely on the basis of indigence, without regard to the potential merit of a complaint. See Deutsch v. United States, 67 F.3d 1080, 1084 n.5 (3d Cir. 1995). Although we have noted that "extreme circumstances" might justify denying IFP status to an otherwise financially qualified applicant, we have not had occasion to define the circumstances for which such action would be appropriate. Id.

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<sup>1</sup> Six weeks after entry of this order and three weeks after Mock filed her notice of appeal, the District Court consolidated this case with several that Mock had filed appealing from a Bankruptcy Court order or orders. We have considered whether the consolidation order effectively permitted Mock to proceed with the claims raised in this case. As the record does not include Mock's complaint, and the docket prepared by the District Court in this matter describes Mock's cause of action as arising under 42 U.S.C. § 1983, we cannot say that the consolidation order permitted Mock to assert the claims raised in this case.

Here, the District Court did not explain why it denied Mock's IFP application. Based on the financial information contained in the application, she appears eligible for IFP status. If the District Court believed that some other factor constituted an "extreme circumstance" warranting the denial of IFP status for non-financial reasons, the District Court should have provided that explanation in the order that denied Mock's IFP motion. On the record before us, we must conclude that the District Court's determination constitutes an abuse of discretion.

Accordingly, we will summarily vacate the District Court's order, and remand this matter for further proceedings consistent with this opinion.