

# IN THE MICHIGAN COURT OF APPEALS

## ORDER

Re: **Cortez Lee Cunningham v Dept of Corrections**

Docket No. **298735**

L.C. No. **09-002835-AH**

Donald S. Owens, Judge, acting under MCR 7.211(E)(2), orders:

Plaintiff's "Judicial Notice" pleading filed on August 9, 2010 is treated as a motion for reconsideration of the July 22, 2010 order, and the motion for reconsideration is DENIED. MCL 600.321(1)(a) expressly requires the payment of a \$375 entry fee for bringing an original proceeding in this Court with no exception for an original complaint for habeas corpus. MCL 600.2529(1)(a) is inapposite because that statutory provision only governs filing fees for civil actions brought in the circuit court. Further, while Const 1963, art 1, sec 12 generally precludes suspension of the writ of habeas corpus, requiring a filing fee for seeking a writ of habeas corpus plainly does not constitute suspension of that writ at least where, as in this case, the relevant statutory provisions allow payment of an initial partial filing fee to proceed with an original complaint for habeas corpus with that partial fee being calculated in a manner indicative of plaintiff's ability to pay it.

In order to proceed with this case, plaintiff must pay the \$28 initial partial filing fee required by the July 22, 2010 order within 21 days of the date of this order.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

AUG 20 2010

Date

*Sandra Schultz Mengel*  
Chief Clerk