

United States District Court

For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALVIN CARLISLE,

Plaintiff,

v.

DONALD RUMSFELD,

Defendant.

No. C-05-4370 MMC

**ORDER SETTING ASIDE ORDER OF
DISMISSAL AND VACATING
JUDGMENT; SETTING DEADLINE FOR
PLAINTIFF TO SERVE DEFENDANT
AND TO FILE PROOF OF SERVICE**

_____ /

By order filed April 6, 2006, the Court dismissed the above-titled action, on the ground that the Clerk had not received from plaintiff the filing fee as of the previously-set deadline of March 31, 2006. Also, on April 6, 2006, the Clerk entered judgment on the Court's order of dismissal. Thereafter, on April 10, 2006, the Clerk received the filing fee by mail; according to the postmark on the envelope, plaintiff mailed the filing fee to the Clerk on March 31, 2006.¹

Because plaintiff has paid the required filing fee, the Court hereby SETS ASIDE the

¹The delay between the date of mailing and the date of receipt appears to have been the result of plaintiff's having mailed the fee to an incorrect address. For future reference, in the event that plaintiff wishes to mail documents to the Clerk, plaintiff should use the following address:

Clerk, United States District Court
450 Golden Gate Avenue, 16th Floor
San Francisco CA 94102

1 order of dismissal filed April 6, 2006 and VACATES the judgment entered thereon.

2 As set forth in the Court's order of March 13, 2006, plaintiff is responsible for
3 causing the summons and complaint to be served on defendant. See Fed. R. Civ. P 4(m)
4 (providing summons and complaint must be served within 120 days of filing of complaint).
5 Plaintiff is hereby ORDERED to cause the summons and complaint to be served on
6 defendant no later than July 31, 2006. See Williams-Guice v. Board of Educ., 45 F. 3d
7 161, 165 (7th Cir. 1995) (holding, where district court denies application to proceed in
8 forma pauperis, 120-day period to serve defendant begins running on date plaintiff pays
9 filing fee).² Plaintiff is further ORDERED to file, no later than August 4, 2006, proof of such
10 service of the summons and complaint on defendant. If plaintiff does not timely serve
11 defendant or timely file proof of service, the Court hereby gives plaintiff notice that the
12 action will be dismissed without prejudice, pursuant to Rule 4(m).

13 **IT IS SO ORDERED.**

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15 Dated: April 13, 2006

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18 MAKINE M. CHESNEY
19 United States District Judge
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27 ²Plaintiff is advised that he must obtain the summons in person, between 9:00 a.m.
28 and 4:00 p.m., at the Clerk's Office, 450 Golden Gate Avenue, 16th Floor, San Francisco
CA 94102.