

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 08-11864-RWZ

MOISES A. MORALES

v.

BROCKTON SUPERIOR COURT, *et al.*

MEMORANDUM AND ORDER

June 14, 2011

ZOBEL, D.J.

On February 4, 2011, this court entered an Order (Docket # 33) granting Defendants' Motion to Dismiss for Lack of Prosecution and Failure to Notify Court and Defendants of Change of Address (Docket # 32). Plaintiff's action was dismissed without prejudice pursuant to Fed. R. Civ. P. Rule 41(b). Id.

Now before the court is plaintiff's motion for reconsideration (Docket # 38), seeking, *inter alia*, to re-open this closed civil action. Plaintiff claims that the Worcester County Jail and House of Correction failed to deliver to him defendants' motion to enlarge time to file a responsive pleading (Docket # 30). That motion was subsequently returned to defendants as undeliverable (Docket # 32) and became the basis for this court's grant of defendants' motion to dismiss. See Docket # 33. Plaintiff also claims that he was held incommunicado so that he was unable to comply with Local Rule 83.5.2(e), which requires a party appearing pro se to notify the clerk of any change of

address. The plaintiff has since been released from prison and has indicated his continued interest in pursuing the claims asserted in his complaint. See Docket # 38.

Given the circumstances, plaintiff's motion for reconsideration is granted under Fed. R. Civ. P. Rule 60(b)(6) because plaintiff has offered a reason for his failure to file that justifies relief. See Ungar v. Palestine Liberation Organization, 599 F.3d 79, 83-84 (1st Cir. 2010). He shall file his opposition to defendants' motion to dismiss within 28 days of the date of this Order. A copy of this Order will be mailed to plaintiff at the address shown on the docket sheet.

Plaintiff's motion to stay pending appointment of counsel (Docket # 38) is denied for the reasons previously stated in the court's Order of October 22, 2010 (Docket # 17).

June 14, 2011
DATE

/s/Rya W. Zobel
RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE