

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

| | | |
|---------------------------|---|-----------------------|
| PAUL J. McMANN, |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 12-11872-PBS |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| Defendant. |) | |

ORDER RE: Plaintiff's Motion
Requesting Clarification (Docket No. 24)

Now before the Court is Plaintiff Paul McMann's Motion Requesting Clarification of the Court's Memorandum and Order dated March 26, 2013, assessing him an initial, partial filing fee of \$10.80. Plaintiff explains that he has no funds to pay the initial filing fee and he attaches a copy of his prison account statement. On April 5, 2013, the Court received a letter from the Warden stating that Plaintiff has no money in his account and is indigent. See Docket No. 23.

The in forma pauperis statute requires the Court to assess an initial partial filing fee, and McMann was assessed an initial, partial payment of \$10.90. However, collection only occurs "when funds exist." See 28 U.S.C. § 1915(b)(1) (court shall collect initial partial filing fee "when funds exist"); see also 28 U.S.C. § 1915(b)(4) (prisoner shall not be prohibited from bringing civil action because he lacks assets and means to pay initial partial filing fee). Section 1915(b)(2) requires the remainder of the fee, \$339.20, to be collected from McMann's account each time the amount in his account exceeds \$10.00.

Based upon the foregoing, Plaintiff's Motion Requesting Clarification is allowed and the initial, partial filing fee shall be collected only when funds exist pursuant to 28 U.S.C. § 1915(b)(1).

SO ORDERED.

April 22, 2013
DATE

/s/ Patti B. Saris
PATTI B. SARIS
UNITED STATES DISTRICT JUDGE