

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 12-12070-RWZ

JWAINUS PERRY

v.

LUIS S. SPENCER, et al.

ORDER

December 10, 2012

ZOBEL, D.J.

Upon review of the plaintiff's motion for leave to proceed in forma pauperis (#8), the Court concludes that the plaintiff has adequate funds in his prison account to prepay the filing fee. Accordingly, the motion is DENIED. If the plaintiff wishes to pursue this action, he must, within thirty-five (35) days of the date of this Order pay the \$350.00 filing fee. Failure to comply with this directive will result in dismissal of the action without prejudice. The Court shall send a copy of this Order to the treasurer of the institution having custody of the plaintiff; however, the treasurer shall not forward payment unless so requested by the plaintiff.

If the plaintiff pays the filing fee, the complaint will still be subject to an initial screening, and summonses will not issue unless and until the Court has determined that the complaint states a claim for relief. See 28 U.S.C. § 1915A.

The plaintiff has also filed a motion to complete service by regular first class mail (#9). He claims that he cannot otherwise afford to complete service because he is

indigent. The motion is DENIED. Rule 4 of the Federal Rules of Civil Procedure does not provide for service on an individual by regular first class mail. Further, the plaintiff is not indigent. Finally, should the Court allow this action to go forward once the plaintiff pays the filing fee and the Court screens the complaint, the plaintiff may ask the defendants to waive service of summons. See Fed. R. Civ. P. 4(d). This request may be sent by first class mail. See Fed. R. Civ. P. 4(d)(1)(G).

SO ORDERED.

12/10/2012
DATE

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