

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CUSHAW BANACEK BARNETT,  
Plaintiff,

v.

CIVIL ACTION NO. 13-10038-DPW

COMMONWEALTH OF MASSACHUSETTS, ET AL.,  
Defendant.

MEMORANDUM AND ORDER

March 11, 2013

WOODLOCK, D.J.

I. INTRODUCTION

On January 7, 2013, plaintiff Cushaw Banacek Barnett filed a complaint under 42 U.S.C. § 1983 seeking monetary damages. He alleges that he is being held unlawfully in jail under a void federal criminal judgment. He also asserts a claim for denial of access to the courts.

On January 17, 2013, I issued a Memorandum and Order (Docket No. 4) directing plaintiff to pay the filing fee or to file an application to proceed without prepayment of fees within 21 days. I also directed plaintiff to file an amended complaint setting forth his claims in accordance with Rule 8 of the Federal Rules of Civil Procedure, and to demonstrate good cause within 42 days why this action should not be dismissed for the reasons set forth in the Memorandum and Order. Those reasons included the failure to set forth plausible claims under Rule 8 with respect to the identification of the proper defendant(s), sovereign immunity as a bar to his claims for money damages, the bar to claims of false

imprisonment based on the favorable termination rule, and the bar to his claims because the Essex County Jail is not a suable entity.

## II. DISCUSSION

To date, plaintiff has failed to pay the filing fee or to seek leave to proceed *in forma pauperis*. Additionally, he has failed to file an amended complaint and a show cause response as directed, and has not sought an extension of time for compliance.

Accordingly, for the failure to satisfy the filing fee requirements of this court, the failure to comply with the directives contained in the Memorandum and Order, and for the substantive reasons set forth in the Memorandum and Order (Docket No. 4), this action will be DISMISSED in its entirety.

## III. CONCLUSION

Based on the above, it is hereby Ordered that this action is DISMISSED in its entirety.<sup>1</sup>

SO ORDERED.

/s/ Douglas P. Woodlock  
DOUGLAS P. WOODLOCK  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup>Plaintiff is a "prisoner" as defined by 28 U.S.C. § 1915(h). For purposes of determining the applicability of the three-strike rule of 28 U.S.C. § 1915(g) in connection with any future litigation by plaintiff, I deem the dismissal of this action to be a decision on the merits for the failure to state claims upon which relief may be granted.