

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

DANIEL LYNCH,  
Plaintiff,

v.

CIVIL ACTION NO.  
14-10656-MBB

UNITED STATES OF AMERICA,  
Defendant.

**PROCEDURAL ORDER**

**March 26, 2014**

**BOWLER, U.S.M.J.**

On March 6, 2014, Plaintiff, now detained at FMC Devens, filed this civil action and submitted from his prison account a \$350.00 payment towards the filing and administrative fees.

A party bringing a civil action must either (1) pay the \$350.00 filing fee and the \$50.00 administrative fee<sup>1</sup>, see 28 U.S.C. § 1914(a); or (2) seek leave to proceed without prepayment of the filing fee, see 28 U.S.C. § 1915 (proceedings in forma pauperis). Where the plaintiff is a prisoner, a motion for waiver of prepayment of the filing fee must be accompanied by "a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner is or was

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<sup>1</sup>The \$50.00 administrative fee became effective May 1, 2013; it does not apply to persons proceeding in forma pauperis. See Judicial Conference Fee Schedule.

confined." 28 U.S.C. § 1915(a)(2).<sup>2</sup>

Because Plaintiff has not requested leave to proceed in forma pauperis, the \$50.00 administrative fee applies to this case. Plaintiff will be granted additional time to either pay the \$50.00 administrative fee or file an Application to Proceed in District Court Without Prepayment of Fees and Costs. Parties granted leave to proceed in forma pauperis are not obligated to pay the \$50 administrative fee and may elect to have service of the summons and complaint made by the United States Marshals Service with all costs of service to be advanced by the United States.

Upon review of the plaintiff's pleadings, it is hereby ORDERED that:

- (1) Within 21 days of this Procedural Order, plaintiff either shall (1) pay the \$50.00 administrative fee; or (2) file an application to proceed in forma pauperis accompanied by a certified prison account statement. Failure of the plaintiff to comply with this directive may result in the dismissal of this action.
- (2) The Clerk shall provide the plaintiff with (1) a blank Application to Proceed in District Court Without Prepaying Fees or Costs; and (2) the form for Consent/Refusal of Magistrate Judge Jurisdiction and the instructions for that form ("consent package").<sup>3</sup>

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<sup>2</sup>Unlike other civil litigants, prisoner plaintiffs are not entitled to a complete waiver of the filing fee, notwithstanding the grant of in forma pauperis status. Based on the information contained in the prison account statement, the Court will direct the appropriate prison official to withdraw an initial partial payment from the plaintiff's account, followed by payments on a monthly basis until the entire \$350.00 filing fee is paid in full. See 28 U.S.C. § 1915(b)(1)-(2).

<sup>3</sup>This action was randomly assigned to this Court pursuant to the District Court's Consent Program.

- (3) The Clerk shall issue a summons as to the United States of America and mail it to Plaintiff who shall serve it in accordance with Fed. R. Civ. P. 4 and Local Rule 4.1.

SO ORDERED.

/s/ Marianne B. Bowler, USMJ  
**MARIANNE B. BOWLER**  
United States Magistrate Judge