

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JOSEPH DELONG, )  
Plaintiff, )  
 ) Civ. Action No. 17-11783-PBS  
v. )  
 )  
BART NELSON, et al., )  
Defendants. )

ORDER ON MOTION FOR RECONSIDERATION  
January 8, 2018

SARIS, C.D.J.

The plaintiff, Joseph DeLong, is an inmate currently incarcerated at the Old Colony Correctional Center. On December 8, 2017, I denied his motion for leave to proceed in forma pauperis because the prison treasurer's statement seemed to indicate that DeLong had over \$6,000 in his prison account. DeLong was directed to pay the filing fee. In response to that order, DeLong filed a motion for reconsideration and a copy of his inmate trust account statement.

In reviewing the motion for reconsideration and DeLong's inmate trust account statement, it is clear that DeLong never had more than \$1,780.00 in his prison account, and those funds were received on April 18, 2017, as settlement proceeds for a previous suit. The \$6,000 figure was derived from the treasurer's statement of DeLong's total income for the six-month period preceding DeLong's filing of his complaint, and not from the prison account statement itself. His balances are as

follows: \$424.68 in his personal account and \$351.28 in his savings account.

Because DeLong has identified information that was overlooked in denying his application to proceed in forma pauperis, his motion for reconsideration is allowed and the Court will allow DeLong to proceed in forma pauperis. Pursuant to 28 U.S.C. § 1915(b)(1), the court must assess, and collect when funds exist, an initial partial filing fee calculated upon the greater of (1) the average monthly deposit in DeLong's account or (2) the average monthly balance in the account for the six-month period preceding the filing of the complaint. Thereafter, DeLong must make monthly payments of twenty percent of the preceding month's income in his institutional account.

Based on the foregoing, it is hereby Ordered that:

1. The motion [ECF No. 11] for reconsideration is granted and DeLong is permitted to proceed in forma pauperis;
2. Pursuant to 28 U.S.C. § 1915(b)(1), the Court assesses an initial partial filing fee of \$251.97. The remainder of the fee, \$98.03, shall be collected in accordance with 28 U.S.C. § 1915(b)(2);
3. The Clerk shall issue summonses for service of the complaint on the defendants;
4. The Clerk shall send the summonses, complaint, and this Order to the plaintiff, who must thereafter serve the defendants in accordance with Federal Rule of Civil Procedure 4(m). The plaintiff may elect to have service made by the United States Marshal Service. If directed by the plaintiff to do so, the United States Marshal shall serve the summonses, complaint, and this Order upon the defendants, in the manner directed by the plaintiff, with all costs of service to be advanced by the United States.

The plaintiff shall have 90 days from the date of this Order to complete service; and

5. The defendants are required to respond to the complaint. See 42 U.S.C. § 1997e(g)(2).

SO ORDERED.

/s/ Patti B. Saris

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PATTI B. SARIS

CHIEF UNITED STATES DISTRICT JUDGE