

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MARCOS CRUZ,)	
Plaintiff,)	
)	
v.)	C.A. No. 12-30089-TSH
)	
SPRINGFIELD POLICE DEPARTMENT,)	
ET AL.,)	
Defendants.)	

MEMORANDUM AND ORDER FOR DISMISSAL

HILLMAN, D.J.

On May 10, 2012, plaintiff Marcos Cruz (“Cruz”), then a prisoner at NCCI Gardner in Gardner, Massachusetts, filed a self-prepared civil action against the Springfield Police Department and unidentified police officers. Cruz alleged that, while he was in the process of being arrested by police officers, he was assaulted without justification or provocation, and sustained personal injuries from a dog bite.

On May 17, 2012, a Procedural Order (Docket No. 4) entered denying Cruz’s Motion for Leave to Proceed *in forma pauperis* because Cruz failed to submit his certified prison account statement with his motion, as required by 28 U.S.C. § 1915(a)(2). Cruz was directed to pay the filing fee or file a renewed *in forma pauperis* motion along with his prison account statement.

On May 31, 2012, Cruz filed a renewed Motion for Leave to Proceed *in forma pauperis* (Docket No. 5) along with a prison account statement.

Thereafter, on June 12, 2012, this action was reassigned from Judge Saylor to the undersigned. On June 26, 2012, this Court issued a Memorandum and Order (Docket No. 7) granting the Motion for Leave to Proceed *in forma pauperis*, and screening the Complaint

pursuant to 28 U.S.C. §§1915(e) and 1915A. Upon screening, this Court found that: (1) Cruz's Complaint failed to comport with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure; (2) the Springfield Police Department was not a suable entity; and (3) there was no *respondeat superior* liability of the Springfield Police Department under § 1983. Cruz was advised that this action would be dismissed within 42 days unless he filed an Amended Complaint curing the legal deficiencies noted in the Memorandum and Order. He was also directed to show good cause why his claims against the Springfield Police Department should not be dismissed if such claims were included in an Amended Complaint.

On June 28, 2012, the mail sent to Cruz was returned as undeliverable. In light of that, on July 3, 2012, this Court entered an Electronic Order indicating that Cruz's whereabouts were unknown to this Court; however, he remained under a continuing obligation to check on the status of his case and to advise this Court of a change in mailing address. This Court also indicated that Cruz still was obligated to comply with the directives contained in the prior Memorandum and Order. On July 9, 2012, the copy of the Electronic Order sent to Cruz was returned as undeliverable.

To date, Cruz has failed to comply with the directive to file an Amended Complaint and/or to show cause why his claims against the Springfield Police Department should not be dismissed.

Accordingly, for the reasons set forth in the Memorandum and Order (Docket No. 7), and for the failure of Cruz to comply with the directives contained therein, it is hereby Ordered that

the above-captioned matter is DISMISSED.¹

SO ORDERED.

8/21/12
DATE

/s/ Timothy Hillman
TIMOTHY S. HILLMAN
UNITED STATES DISTRICT JUDGE

¹For purposes of 28 U.S.C. § 1915(g), this Court intends this opinion to constitute a ruling on the merits.