

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ FEB 07 2012 ★

BROOKLYN OFFICE

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NELLA MANKO,

Plaintiff,
-against-

**MEMORANDUM
AND ORDER**

11-CV-5054 (KAM) (LB)

MARC FINKELSTEIN, individually
and in his official capacity
as Justice of the Civil Court
(Housing Part) of Kings County;
SABRINA B. KRAUS, individually
and in her official capacity
as Justice of the Civil Court
(Housing Part) of Kings County;
KINGS COUNTY CIVIL COURT OF THE
CITY OF NEW YORK (HOUSING PART);
ADMINISTRATIVE JUDGE, individually
and in her/his official capacity
as Administrative Justice of the Civil
Court (Housing Part) of Kings County,

Defendants.

_____ X

MATSUMOTO, United States District Judge:

On October 14, 2011, *pro se* plaintiff Nella Manko filed this action pursuant to 42 U.S.C. § 1983 alleging that defendants violated her constitutional rights during the course of two cases pending in Kings County Civil Court Housing Part, Index Numbers 72359/2008 and 94458/2008. By Order dated November 17, 2011, plaintiff's motion to proceed *in forma pauperis* was denied because plaintiff's financial statement did not support a finding of indigency, and she was directed to pay the filing fee within fourteen (14) days. (See ECF No. 4, Order dated 11/17/2011 at 2, 4.) The Order notified plaintiff that

even if she paid the filing fee, the action would be dismissed on the bases set forth in the court's Order. (*Id.* at 2-4.) On December 1, 2011, plaintiff filed a motion, which the court liberally construed as a motion for reconsideration of the court's November 17, 2011 Order. (See ECF No. 5, Notice of Motion, filed 12/1/2011.) By Order dated January 9, 2012, the court denied plaintiff's motion to reconsider the November 17, 2011 Order denying her motion to proceed *in forma pauperis*. (ECF No. 6, Order dated 1/9/2012 at 3). The January 9, 2012 Order afforded plaintiff an additional ten (10) days from the date of the Order to pay the filing fee of \$350 to the Clerk of the Court of the Eastern District of New York, and stated, "[i]f plaintiff fails to submit the filing fee within the time allowed, the action will not be filed." (*Id.*)

On January 19, 2012, plaintiff filed a motion seeking (1) an Order to "recall and vacate" the court's November 17, 2011 Order denying plaintiff's motion to proceed *in forma pauperis*; (2) an Order to "recall and vacate" the court's January 9, 2012 Order denying plaintiff's motion for reconsideration; (3) leave to renew plaintiff's *in forma pauperis* application; and (4) an order granting plaintiff's request for leave to proceed *in forma pauperis*. (ECF No. 7, Notice of Motion, filed 1/19/2012.)

To the extent that plaintiff seeks reconsideration of the court's November 17, 2011 and January 9, 2012 Orders, and of

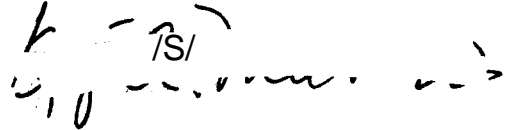
the denial of her application to proceed *in forma pauperis*, the court finds no factual or legal basis to reconsider its previous Orders. Plaintiff has failed to point to any error of law or facts in the record that the court overlooked or any change in governing law that would alter the conclusions previously reached. Moreover, the court does not find that reconsideration is warranted due to newly available evidence or to prevent manifest injustice. Accordingly, plaintiff's motion is denied.

Plaintiff has not paid the filing fee and the time for doing so has passed. Accordingly, the action shall not be filed and is dismissed without prejudice. The court notes that plaintiff has recently filed several other cases in this court and in the United States District Court for the Southern District of New York asserting claims similar to those in this case and against some of the same defendants. *See, e.g., Manko v. Abdus-Salaam*, No. 11 Civ. 7725 (LAP) (S.D.N.Y. Oct. 28, 2011); *Manko v. Steinhardt*, No. 11 Civ. 5430 (KAM)(LB) (E.D.N.Y. Nov. 28, 2011); *Manko v. Steinhardt*, No. 11 Civ. 5103 (KAM)(LB) (E.D.N.Y. Dec. 2, 2011). Plaintiff is respectfully requested to abstain from filing further duplicative or frivolous litigation in this court.

The Clerk of Court is respectfully requested to serve a copy of this Memorandum and Order on plaintiff and note service on the docket by February 8, 2012, dismiss this action, and close this case.

SO ORDERED.

Dated: February 7, 2012
Brooklyn, New York

Handwritten signature of Kiyoo A. Matsumoto in black ink. The signature is cursive and includes the initials 'TSI' in the middle.

Kiyo A. Matsumoto
United States District Judge
Eastern District of New York