

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:11cv211-W<sup>1</sup>**

<b>JAMES ROBBIN CHAVIS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b><u>ORDER</u></b>
	)	
<b>T.J. MAXX CORP., et al.,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**THIS MATTER** comes before the Court upon Plaintiff’s document styled as a “Motion to Reconsider Ruling on IFP Explanation of Difference,” filed May 17, 2011 (Doc. No. 10).

On April 29, 2011, Plaintiff filed a Complaint under Title VII (Doc. No. 1) along with his first IFP Application (Doc. No. 2). Such IFP Application reported, inter alia, that Plaintiff’s monthly household income was \$1,300; and that his monthly living expenses totaled approximately \$706.00. (Doc. No. 2 at 1-3). Accordingly, the Court denied that IFP Application upon its determination that Plaintiff had about \$500.00 each month for discretionary spending. (Doc. No. 5 at 1-2). The Court’s Order gave Plaintiff thirty days in which to remit the \$350.00 filing fee. (Id. at 2).

Instead of remitting the filing fee, On May 9, 2011, Plaintiff filed a second IFP Application, again seeking permission to proceed with his Complaint for employment discrimination without having to prepay the applicable fees and costs. (Doc. No. 6). That second Application still reported Plaintiff’s monthly income as \$1,300; however, it claimed that Plaintiff’s monthly

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<sup>1</sup> This case is assigned to the Honorable Frank D. Whitney, United States District Judge. However, the instant Motion has been referred to the Honorable Graham C. Mullen, Senior United States District Judge, for resolution. See 3:11mc67-W, Doc. No. 1.

rental expenses were \$949.00 and not \$386.00 as was reported on his first IFP Application. (Id. at 4). Furthermore, Plaintiff's second IFP Application failed to explain why he did not accurately report his expenses in his first IFP Application; and Plaintiff's cover letter for his Complaint did not list the address for which he reportedly was paying the \$949.00 rental expense. Accordingly, by an Order filed May 11, 2011, the Court denied Plaintiff's second IFP Motion and directed him to pay the \$350.00 filing fee. (Doc. No. 8).

By the instant Motion to Reconsider (Doc. No. 10), Plaintiff explains that the \$386.00 amount that he reported as his housing expenditure on his first IFP Application was merely a rough estimate that he hurriedly calculated on the last day of his filing period; that he subsequently realized that he spent far more than that on his housing and groceries and other expenses; that the information on his second IFP Application was a better estimate of his living expenses; and that there was a discrepancy in his addresses because he lives at a hotel but uses his mother's home address as his mailing address for his business and personal correspondence. (Id. at 1).

Based upon the foregoing, the Court finds that Plaintiff has established good cause for reconsideration of his second IFP Application; therefore, the instant Motion to Reconsider (Doc. No. 10) will be granted. Furthermore, the Court finds that Plaintiff has provided sufficient information to establish that he lacks the funds from which to pay the subject filing fee and costs. Therefore, the Court will vacate its earlier Order to deny Plaintiff's second IFP Application (Doc. No. 6), and will grant that Application.

**IT IS, THEREFORE, ORDERED that:**

1. Plaintiff's Motion to Reconsider (Doc. No. 10) is **GRANTED**;
2. The Court's Order denying Plaintiff's second Application to Proceed in District Court

without Prepaying Fees or Costs (Doc. No. 8) is **VACATED**;

3. Plaintiff's second Application to Proceed in District Court without Prepaying Fees or Costs (Doc. No. 6) is **GRANTED**; and

4. The Court has not yet had an opportunity to conduct an initial review of Plaintiff's Complaint in order to determine whether his allegations are sufficient to state a claim for relief. Consequently, the Clerk of Court shall refrain from preparing and issuing process in this matter unless directed to do so by further Order of this Court.

**SO ORDERED.**

Signed: June 7, 2011

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

