

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**MHAMMAD ABU-SHAWISH,
Plaintiff,**

v.

Case No. 10-C-0473

**UNITED STATES OF AMERICA, et al.,
Defendants.**

ORDER

On June 22, 2010, Magistrate Judge Patricia Gorence denied plaintiff's motion to proceed in forma pauperis and informed plaintiff that unless he paid the full filing fee within 21 days his case would be dismissed. After plaintiff refused to consent to proceed before the magistrate judge, the case was reassigned to me. By the time the case was transferred to me, plaintiff's 21 days had expired. I then reviewed the docket for the case, which indicated that plaintiff had yet to pay the filing fee. I therefore dismissed the case for failure to pay the filing fee and ordered the clerk to enter judgment. However, plaintiff immediately filed a motion to reinstate his case on the ground that he had, in fact, paid the filing fee within 21 days of Judge Gorence's order. Attached to his motion is a receipt from the clerk of court indicating that he paid the filing fee on June 25, 2010. The clerk's office has since corrected the docket for this case to reflect that plaintiff paid the filing fee on time.

Because my prior order and the accompanying judgment were based on the clerk's mistake in failing to record receipt of the filing fee on the docket, I find that the judgment should be set aside and this case reinstated. Fed. R. Civ. P. 60(b)(1).

THEREFORE, IT IS ORDERED that plaintiff's motion to reinstate this case is **GRANTED**. My order of August 3, 2010, and the accompanying judgment are hereby **VACATED**.

Dated at Milwaukee, Wisconsin, this 12 day of August, 2010.

/s _____
LYNN ADELMAN
District Judge