

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 07-11752-RWZ

THOMAS A. SHAY

v.

UNITED STATES OF AMERICA

ORDER CONCERNING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

April 8, 2008

ZOBEL, D.J.

The Court of Appeals remanded this case for an initial determination of petitioner's motion to proceed in forma pauperis. Petitioner attached to his motion an affidavit which discloses no income and no assets. Appended thereto is his institutional account, not for the past five months (the time of his most recent incarceration), but for the period March 4 to March 24, 2008. Although the ending balance for this period was \$170.96, the deposits to the account during this twenty-day span were \$810.91. The papers explain neither the source of these funds nor the availability of additional monies. Based on this contradictory record I am not persuaded that petitioner is unable to pay the filing fee of \$455.00.

Accordingly, the motion is denied

April 8, 2008

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE

