

[NOT FOR PUBLICATION-NOT TO BE CITED AS PRECEDENT]

United States Court of Appeals For the First Circuit

No. 00-1321

EMMETT S. MULDOON,
Plaintiff, Appellant,

v.

MICHAEL T. MALONEY; ET AL.,
Defendants, Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Edward F. Harrington, U.S. District Judge]

Before

Selya, Circuit Judge,
Campbell, Senior Circuit Judge,
and Boudin, Circuit Judge.

Emmett S. Muldoon on brief pro se.

SEPTEMBER 28, 2000

Per Curiam. Appellant, a state prisoner proceeding in forma pauperis, appeals the district court's dismissal of his complaint as "frivolous" as well as the taxing of his prisoner account to satisfy the filing fee. See 28 U.S.C. § 1915. Appellant does not deny that the complaint is an identical copy of a complaint he had previously filed and is pursuing in a separate, pending action. He asserts, however, that he did not mail the duplicative complaint to the district court. He surmises that a copy may have been transmitted to the court by someone who tampered with his mail. The district court considered the argument and denied reconsideration of its order "upon a review of the record."

We perceive no clear error in the court's finding nor any abuse of discretion.

Affirmed.