

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

HAROLD A. TRACY,)	
)	
Plaintiff)	
)	
v.)	Civil No. 06-79-B-S
)	
ANDREW HAYWARD, et al.,)	
)	
Defendant)	

RECOMMENDED DECISION

I am recommending that this complaint be summarily dismissed; the reasons for my recommendation are found in the recommended decision in Tracy v. Hayward, Civil No. 04-201, 2005 WL 757573 (D. Me. Feb. 24, 2005). This complaint alleges the identical factual matrix and names the identical defendants. The only differences are found in some of Tracy's conclusory legal statements and in Paragraphs 30 and 31 wherein he asks this court to declare null and void the December 27, 2005, decision of the First Circuit Court of Appeals affirming this court's earlier dismissal of this identical claim. Tracy's commencement of this action in this court is an abuse of process and this court should not issue summonses and subject these defendants to the expense of responding once again to the identical allegations. Accordingly I recommend summary dismissal.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

/s/ Margaret J. Kravchuk
U.S. Magistrate Judge

July 7, 2006