

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

JAMES SCOTT WILBER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 1:18-cv-255-NT
	)	
JOSEPH FITZPATRICK, et al.,	)	
	)	
Defendants.	)	

**ORDER AFFIRMING THE RECOMMENDED  
DECISION OF THE MAGISTRATE JUDGE**

On August 14, 2018, the United States Magistrate Judge filed with the court, with copy to the Plaintiff, his Recommended Decision after a preliminary review of the Plaintiff's Complaint under 28 U.S.C. § 1915. Recommended Decision (ECF No. 15). On August 24, 2018, the Plaintiff filed an objection to the Recommended Decision (ECF No. 16). I have reviewed and considered the Recommended Decision, together with the entire record; I have made a *de novo* determination of all matters adjudicated by the Recommended Decision. I concur with the recommendations of the United States Magistrate Judge.

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **AFFIRMED** and the Plaintiff's complaint, as amended, be **DISMISSED** except for:

- (1) Plaintiff's due process claim against Defendants Abbott, Theriault, Bueno, Blakely, and Ross regarding the imposition of a \$100 fine following a disciplinary proceeding;
- (2) Plaintiff's excessive force claim against Defendant Horton and Plaintiff's retaliation claim against Defendants Horton and Chadwick.

With respect to the Plaintiff's excessive force and retaliation claims, it is **ORDERED** that on or before November 15, 2018, the Plaintiff provide the court with any information that shows he exhausted or might have exhausted the available administrative remedies, or that for some reason he is not required by law to exhaust the available administrative remedies. If the Plaintiff fails to provide information, the excessive force and retaliation claims shall be dismissed without prejudice.

With respect to the two motions for preliminary or temporary injunctive relief (ECF Nos. 6, 14), the Plaintiff has failed to allege facts that would support a successful challenge to the constitutionality of the prison disciplinary process and, therefore, the motions for injunctive relief are **DENIED**.

SO ORDERED.

/s/ Nancy Torresen  
United States Chief District Judge

Dated this 12th day of October, 2018.