

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

EUNICE MANUEL)
GARY MANUEL,)
)
Plaintiffs,)
)
v.) Civil No. 9-339-B-W
)
BANGOR, CITY OF, et al.,)
)
Defendants)

RECOMMENDED DECISION ON SHOW CAUSE ORDER

The Manuels are not proceeding *in forma pauperis* in this case and therefore they are responsible for making proper service on all defendants. Pursuant to Rule 4 of the Federal Rules of Civil Procedure the defendants must be served in hand by a person properly authorized under the rules to make service or they must be presented with the proper documents to obtain service by waiver. The documents provided by the Manuels reflect that four defendants in this action, Penquis Community Action, Bangor Area Homeless Shelter, B&L Properties, and Gilbert and Grief Law Firm were never properly served and that a waiver of service has never been obtained from any of them.

More than 120 days have passed since the complaint was filed. In response to the Order to Show Cause the Manuels have simply said they sent certified mail to various people and some replied and some did not. They ask for more time, but offer no justification for the delay. It must have been apparent to them long before now that these four defendants had not responded to their initial volley, whatever it may have contained. The case has progressed as to those defendants who did respond and delaying the matter further to allow additional time for service

is not warranted, especially given the tenuous nature of the claims against the remaining defendants.

Accordingly, because the Manuel have failed to show cause for their unreasonable delay in making proper service on the remaining four defendants, I recommend that the action be dismissed without prejudice as to those four defendants as required under Rule 4(m) of the Federal Rules of Civil Procedure.

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 fourteen (14) days of being served with a copy thereof. A responsive memorandum shall be filed within fourteen (14) 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

December 15, 2009