

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

<b>JEFFREY C. BEARCE,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	<b>Case No. 1:13cv-00001-JDL</b>
<b>CITY OF WATERVILLE,</b>	)	
	)	
<b>Defendant.</b>	)	

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

The United States Magistrate Judge filed his Recommended Decision (ECF No. 28) with the court on June 30, 2014, pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). The plaintiff (“Bearce”) filed an Objection to the Recommended Decision (ECF No. 29) on July 17. The defendant filed a Response to the plaintiff’s Objection (ECF No. 30) on August 1. The parties participated in oral argument on September 4.

I have reviewed and considered the Magistrate Judge’s Recommended Decision, together with the entire record, and have made a de novo determination of all matters adjudicated by the Magistrate Judge’s Recommended Decision. Although I ultimately concur with the Magistrate Judge’s conclusions as set forth in his Recommended Decision and determine that no further proceeding is necessary, I do so with the following caveat: I do not adopt the Recommended Decision’s treatment of the report of Dr. John Bielecki (ECF No. 19-12), which is cited in support of the conclusion that “a reasonable jury could find that Dr. Bielecki found that [Bearce]

could return to a desk job but nothing more strenuous until Dr. Bielecki completed the testing he wished to pursue.” See ECF No. 28 at 15-16 (*citing* ECF No. 19-12 at 5). There is no dispute that the defendant did not receive Bielecki’s six-page report, which was dated January 17, until well after Bearce was terminated in February 2011. See ECF No. 30 at 3. Instead, the defendant received a shorter, one-page report from Bielecki on January 7, which indicated only that Bearce required further evaluation before he could be cleared to return to work. ECF No. 19-20.

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **AFFIRMED**. The defendant’s motion for summary judgment is **GRANTED**.

**SO ORDERED.**

/s/Jon D. Levy  
**United States District Judge**

Dated this 16th day of September, 2014.