

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

RICHARD PRINCIPATO,)	
)	
PLAINTIFF)	
)	
v.)	CIVIL No. 2:16-cv-73-DBH
)	
SPRINGFIELD TERMINAL RAILWAY)	
COMPANY,)	
)	
DEFENDANT)	
)	

**DECISION AND ORDER ON DEFENDANT’S
MOTION FOR SUMMARY JUDGMENT**

The defendant’s motion for summary judgment on the basis that its “investigation” of the plaintiff could not amount to adverse action is **DENIED** for the same reasons as in the decision and order on summary judgment in Short v. Springfield Terminal Railway Co., Civil No. 2:16-cv-74-DBH. There are some differences in the testimony about what the plaintiff feared, but ultimately there is a jury question.

However, I conclude that the plaintiff has forfeited any direct claim of denied medical attention because he has failed to respond to the defendant’s statute of limitations argument. It is arguable, judging from the one-count Complaint (ECF No. 1), that no such claim was ever made in the first place; but even if it had been, and even setting aside forfeiture, the plaintiff explicitly “abandon[ed] his claim regarding interference with immediate medical treatment.” Pl.’s Mem. in Opp’n to Def.’s Mot. for Summ. J. (ECF No. 37) at 3.

He can, however, argue at trial that the request for medical attention was part of the protected activity for which the Railway retaliated against him.

SO ORDERED.

DATED THIS 26TH DAY OF JULY, 2017

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE