

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

ROBERT W. McKENNEY,)	
)	
Plaintiff,)	
)	
v.)	2:16-cv-00630-JAW
)	
OFFICER FARRINTON, et al.)	
)	
Defendants.)	

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

No objection having been filed to the Magistrate Judge's Recommended Decision issued March 2, 2017 (ECF No. 7), the Recommended Decision is accepted.

Mr. McKenney filed a complaint on December 19, 2016 under 42 U.S.C. § 1983, alleging that certain corrections officers at the Androscoggin County Jail violated his due process rights, *Compl. Under Civil Rights Act, 42 U.S.C. § 1983* (ECF No. 1), together with a motion for leave to file in forma pauperis. *App. to Proceed Without Prepayment of Fees and Aff.* (ECF No. 2). On January 5, 2017, the Court granted Mr. McKenney's motion for leave to file in forma pauperis, *Order Granting Leave to Proceed In Forma Pauperis* (ECF No. 3), and the Clerk of Court sent the Order to Mr. McKenney. On January 23, 2017, Mr. McKenney filed a letter with the Court indicating that he wished to proceed and as a separate attachment an Inmate Request Form. *Indication by Prisoner* (ECF No. 4); *Inmate Req. Form* (ECF No. 5).

On March 2, 2017, the Magistrate Judge issued a detailed recommended decision, recommending that this Court dismiss all of Mr. McKenney's claims except his claim of retaliation against Defendants Farrinton and Feldman based on a denial of participation in a work program, and deny Mr. McKenney's demand for a preliminary injunction. *Recommended Decision After Screening Compl. Pursuant to 28 U.S.C. §§ 1915(e), 1915A* (ECF No. 7). On the same day, the Clerk's Office mailed a copy of the Recommended Decision to Mr. McKenney, but on March 17, 2017, the letter was returned noting that Mr. McKenney was "Released," "Return to Sender," "Not Deliverable as Addressed," and "Unable to Forward." *Mail* (ECF No. 8).

The Clerk's Office has made a good faith effort to notify Mr. McKenney of a significant decision in his case, but the Clerk's Office has been unable to keep him advised of an important matter because it does not know Mr. McKenney's whereabouts. "A party, not the district court, bears the burden of keeping the court apprised of any changes in his mailing address." *Carey v. King*, 856 F.2d 1439, 1441 (9th Cir. 1988). The Court is unaware of Mr. McKenney's current address and has no means of attaining it.

Having reviewed the Magistrate Judge's Recommended Decision with an excess of caution the Court concludes that, even if Mr. McKenney had objected to the Recommended Decision, the Court would still affirm the Magistrate Judge's recommendation to dismiss all of Mr. McKenney's claims against the Defendants with the exception of the claim of retaliation against Mr. Farrinton and Mr. Feldman based

on a denial of participation in a work program. The Court would also deny the motion for preliminary injunction.

Accordingly, it is hereby ORDERED that all claims in the Plaintiff's Complaint Under Civil Rights Act, 42 U.S.C. § 1983 (ECF No. 1), except the retaliation complaint against Officer Farrinton and Officer Feldman based on a denial of participation in a work program be and hereby are DISMISSED without prejudice. The Court also DENIES the Plaintiff's Motion for Preliminary Injunction.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 30th day of March, 2017