

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

MARK GRAHAM,)	
)	
Plaintiff,)	
)	
v.)	2:21-cv-00258-JDL
)	
CAPTAIN DAVID COSTELLO, et al.,)	
)	
Defendants.)	

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

On September 9, 2021, Plaintiff Mark Graham, who was incarcerated at the Cumberland County Jail and is proceeding pro se, initiated this lawsuit (ECF No. 1), seeking to remedy his alleged mistreatment at the jail. The same day, he filed an Application to Proceed in Forma Pauperis (ECF No. 2). On September 13, 2021, Magistrate Judge John C. Nivison denied that application without prejudice as incomplete (ECF No. 4), ordering Graham to submit a completed application or pay the filing fee. Judge Nivison also directed the Clerk’s Office to send an application to proceed in forma pauperis to Graham. Graham filed a Motion for Reconsideration on September 20, 2021 (ECF No. 6), which Judge Nivison denied (ECF No. 14) on October 5, 2021 while also directing the Clerk’s Office to send another application to Graham.

On November 3, 2021, Judge Nivison entered an order (ECF No. 19) requiring Graham to show cause as to why he had not submitted a completed application or

paid the filing fee. Graham responded (ECF No. 20) on November 19, 2021 and again (ECF No. 22) on November 23, 2021, stating that he had sent the application to an office within the jail (in order to obtain his account ledger) but had not heard back. On November 24, 2021, Judge Nivison issued a Recommended Decision (ECF No. 21), pursuant to 28 U.S.C.A. § 636(b)(1)(B) (West 2022) and Fed. R. Civ. P. 72(b), in which he recommended that the Court dismiss Graham's complaint without prejudice for failure to comply with the order to file a completed application or pay the filing fee (unless Graham did one or the other within the fourteen-day window for objections). Graham filed an objection (ECF No. 25) on December 9, 2021, reiterating that he is waiting for the jail to return his application with the necessary documentation. On January 18, 2022, Graham informed the Court that he had been transferred to the Maine State Prison (ECF No. 26), asked the Court for an extension to submit his application (ECF No. 27), and requested another application (ECF No. 28).

I have reviewed and considered the Recommended Decision, together with the entire record, and have made a de novo determination of all matters adjudicated by the Magistrate Judge. I concur with the recommendation of the Magistrate Judge for the reasons set forth in his Recommended Decision and determine that no further proceedings are necessary.

It is therefore **ORDERED** that the Recommended Decision (ECF No. 21) of the Magistrate Judge is hereby **ACCEPTED**; Plaintiff Mark Graham's Motion to Extend Time (ECF No. 27) is **DENIED**; and the Complaint (ECF No. 1) is **DISMISSED WITHOUT PREJUDICE**. The Clerk's Office is directed to forward

Graham another application to proceed in forma pauperis, in the event that he chooses to file a new complaint.

SO ORDERED.

Dated this 21st day of January, 2022.

/s/ Jon D. Levy
CHIEF U.S. DISTRICT JUDGE