## UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

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THOMAS TIERNEY, et al.,	
Plaintiffs,	
v.	
TOWN OF FRAMINGHAM, et al.,	
Defendants.	

Civil Action No. 17-11657-FDS

## **ORDER DISMISSING REMAINING CLAIMS**

## SAYLOR, J.

On February 13, 2018, the Court entered a memorandum and order directing plaintiffs to show cause by February 27, 2018, why their section 1983 claim against defendant John Lapinski should not be dismissed. Plaintiffs were also directed to provide an argument as to why sovereign immunity has been waived by defendants Chad Cronin, Debra Connors, and the Massachusetts Department of Children and Families (collectively, the "DCF defendants").

Plaintiffs filed a response with the Court on February 27, 2018. (Docket No. 38). Their response includes new factual allegations against Lapinski and the DCF defendants. However, it does not explain how Lapinski acted under "color of state law," as required by section 1983. In addition, it fails to show that sovereign immunity has been waived by the DCF defendants. The response merely asserts a vague "plain wording" argument that plaintiffs "assume everyone[] already knows about." (Pl. Resp. at 3). Plaintiffs further appear to cite *Alden v. Maine*, 527 U.S. 706 (1999). However, that case stands for the proposition that Congress lacks the power to "subject nonconsenting States to private suits for damages in state courts." *Id.* at 712.

Accordingly, the claims against defendants Lapinski and the DCF defendants are hereby dismissed.

So Ordered.

Dated: March 6, 2018

/s/ F. Dennis Saylor IV F. Dennis Saylor IV United States District Judge