UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

PAUL KNUTSON,   Case No. 10-CV-0357 (PJS/LIB)

                    Plaintiff,

v.   ORDER ADOPTING REPORT AND
                                                     RECOMMENDATION

CAL LUDEMAN, Commissioner of
Department of Human Services, in his
individual and official capacities; DENNIS
BENSON, Chief Executive Officer of MSOP
Minnesota Sex Offender program, in his
individual and official capacities; DAVID
PRESCOTT, Clinical Site Director, in his
individual and official capacities; DR. ANN
LAVALLEY WOODS, Ph.D., LP, Executive
Clinical Director of MSOP, in her individual
and official capacities; JANINE HEBERT,
Ph.D., LP, Executive Clinical Director of
MSOP, in her individual and official
capacities,

                    Defendants.

          Paul Knutson, pro se.

          Barbara Berg Windels, MINNESOTA ATTORNEY GENERAL'S OFFICE, for
          defendants.

          Plaintiff Paul Knutson, who is a civilly committed detainee in the Minnesota Sex

Offender Program, brings this action under 42 U.S.C. § 1983. Knutson alleges that defendants

have violated his federal constitutional rights by denying him visitation with his minor daughter

and by making all visitors complete an application form.

          This matter is before the Court on the parties' objections to the Report and

Recommendation ("R&R") of Magistrate Judge Leo I. Brisbois. Judge Brisbois recommends

granting defendants' motion to dismiss in part and denying it in part. The Court has conducted a

de novo review. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Based on that review, the Court adopts the R&R, with two minor changes.

First, the Court agrees with Judge Brisbois that Knutson has not pleaded sufficient facts to state a claim against either defendant Cal Ludeman or defendant Janine Hebert. In his objection, however, Knutson provides additional details about his interactions with Hebert. If Knutson were to amend his complaint to include these additional details, Knutson might be able to state a claim against Hebert. The Court will therefore dismiss his claim against Hebert without prejudice in order to give Knutson the opportunity to seek leave to amend his complaint. The Court notes, however, that if Knutson is granted leave to amend his complaint to state a claim against Hebert, Knutson will have to ensure that Hebert is properly served with the amended complaint.

Second, the Court also agrees with Judge Brisbois that Knutson lacks standing to challenge the policy requiring visitors to complete an application form. Because Knutson's claim regarding the application forms is being dismissed for lack of jurisdiction, the Court will dismiss that claim without prejudice. *See City of Kan. City, Mo. v. Yarco Co.*, 625 F.3d 1038, 1040 (8th Cir. 2010) (holding that no subject-matter jurisdiction existed because the plaintiff lacked Article III standing); *Romero v. Pinnacle Equities, LLC*, 283 Fed. Appx. 429, 431 (8th Cir. 2008) (modifying dismissal for lack of subject-matter jurisdiction to be without prejudice).

ORDER

Based on all of the files, records, and proceedings herein, the Court OVERRULES the parties' objections [Docket Nos. 26, 28] and ADOPTS the R&R [Docket No. 25], with the changes noted above. Accordingly, IT IS HEREBY ORDERED THAT:

1.	Defendants' motion to dismiss [Docket No. 8] is GRANTED IN PART and

DENIED IN PART.

2.	Defendants' motion is GRANTED as follows:

a.	To the extent that plaintiff is seeking money damages from any defendant

in his or her official capacity, his claims are DISMISSED WITHOUT

PREJUDICE for lack of subject-matter jurisdiction.

b.	Plaintiff's claims against defendant Cal Ludeman are DISMISSED WITH

PREJUDICE AND ON THE MERITS.

c.	Plaintiff's claims against defendant Janine Hebert are DISMISSED

WITHOUT PREJUDICE.

d.	Plaintiff's claims pertaining to the "visiting application form" policy are

DISMISSED WITHOUT PREJUDICE for lack of subject-matter

jurisdiction.

e.	Plaintiff's equal-protection claims are DISMISSED WITH PREJUDICE

AND ON THE MERITS.

3.	Defendants' motion is DENIED in all other respects.

Dated: March 1, 2011	s/Patrick J. Schiltz
Patrick J. Schiltz
United States District Judge