UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE

John S. Briand

v. Civil No. 09-cv-003-SM

City of Berlin, et al.

O R D E R

This matter originally came before me for preliminary review because Briand, at the time of filing, was a prisoner. See 28 U.S.C. § 1915A(a). After consideration of Briand's complaint, I recommended that it be dismissed for failing to state a claim upon which relief might be granted (document no. 5). Briand has now filed an additional pleading which was docketed as a motion to reconsider (document no. 6). The filing raises two objections to my Report and Recommendation: (1) that I mistakenly indicated that Briand was proceeding in forma pauperis when, in fact, he paid the filing fee in full, and (2) that my recommendation of dismissal was based on an incorrect analysis of the legal claims presented in the complaint.

As to the Briand's first contention, I acknowledge that my identification of Briand as an in forma pauperis plaintiff was in

error. I therefore direct that the relevant language be stricken from my Report and Recommendation.

The central thrust of Briand's most recent filing, however, is that my Report and Recommendation was erroneous and should not be accepted by the Chief Judge. As such, this filing is properly considered as an objection to my Report and Recommendation, and not a motion to reconsider. I have reviewed the objection, and nothing in it alters my April 1, 2009 recommendation of dismissal. Accordingly, I direct the Clerk's Office to redocket Briand's April 9, 2009 filing as an objection to my Report and Recommendation, and to forward it to the Chief Judge for his consideration.

SO ORDERED.

James R. Muirhead
United States Magistrate Judge

Date: May 7, 2009

cc: John Briand, *pro se*