

**UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW HAMPSHIRE**

Andre R. Levesque

v.

Civil No. 09-cv-246-SM

State of New York et al.

**ORDER**

Before the Court is Andre Levesque's complaint (doc. no. 1), which is before me for a preliminary review. See 28 U.S.C. § 1915(e)(2); United States District Court, District of New Hampshire, Local Rule ("LR") 4.3(d)(1)(B). In the Report and Recommendation issued this date ("Report and Recommendation"), I have recommended that the complaint be dismissed in its entirety.

Levesque filed a large number of exhibits, including several bulky items, along with his complaint, and has requested in the complaint that the Clerk return them to him. I construe this request as a motion for the return of part of the original record of the case during its pendency, prior to the expiration of the time for filing a notice of appeal.

As I have recommended that the complaint be dismissed in the Report and Recommendation, I will grant Levesque's motion, subject to the following conditions, to ensure that the record remains intact during the time in which an objection to the Report and Recommendation may be filed, and an appeal, if any,

may be taken from the order on the Report and Recommendation:

1. If the Report and Recommendation is accepted, resulting in dismissal of the case, and no notice of appeal is filed, the Clerk is directed, within 30 days, to return the original exhibits to Levesque.

2. Otherwise, the original exhibits shall remain part of the record pending entry of final judgment and conclusion of any appeal and may not be returned to Levesque, until he files a new request that the exhibits be returned to him.

**SO ORDERED.**

  
James R. Muirhead  
United States Magistrate Judge

Date: October 14, 2009

cc: Andre Levesque, pro se