

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

GENE N. COWETTE, )  
 )  
 Plaintiff )  
 )  
 v. ) Civil No. 96-0215-B  
 )  
 AROOSTOOK COUNTY JAIL, )  
 )  
 Defendant )

**RECOMMENDED DECISION**

Plaintiff has filed this *pro se* Complaint pursuant to 42 U.S.C. § 1983, and seeks leave to proceed *in forma pauperis*. However, the Court concludes that the Complaint may fairly be considered frivolous within the meaning of 28 U.S.C. § 1915, and should therefore be dismissed.

Plaintiff’s Complaint asks the Court why the Aroostook County Jail violates Maine Law by transporting prisoners in a county van over the van’s capacity and without safety belts. He apparently seeks a declaration that the Jail is jeopardizing prisoners’ lives as a result of these transgressions.

Nowhere does Plaintiff allege that he was personally transported in the manner described, nor would the Court be inclined to characterize such transportation as a “deprivation[] denying 'the minimal civilized measure of life's necessities,'” as would be required to state a claim of cruel and unusual punishment. *Wilson v. Seiter*, 501 U.S. 294, 298 (1991) (quoting *Rhodes v. Chapman*, 452 U.S. 337, 346 (1981)). Further, Plaintiff does not name as a Defendant any individual who is alleged to have perpetrated the violation. The “Aroostook County Jail” is simply not a person within the meaning of 42 U.S.C. section 1983. *See Will v. Michigan Dept. of State Police*, 491 U.S. 58 (1989) (finding the same for the State Police). Nor would it serve Plaintiff’s cause to substitute the

individual administrator of the Jail, as there is no *respondeat superior* liability under section 1983. *Monell v. Department of Soc. Serv.*, 436 U.S. 658, 694 (1978).

***Conclusion***

Accordingly, I hereby recommend Plaintiff's Complaint be dismissed as frivolous within the meaning of 28 U.S.C. § 1915.

**NOTICE**

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) (1988) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

---

Eugene W. Beaulieu  
United States Magistrate Judge

Dated in Bangor, Maine on September 16, 1996..