

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

BERT J. ALLEN, III,  
Plaintiff

v.

YORK COUNTY JAIL, *et al.*,  
Defendants

Civil No. 01-224-P-C

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BERT J. ALLEN, III,  
Plaintiff

v.

YORK COUNTY SHERIFF'S  
DEPARTMENT, *et al.*,  
Defendants

Civil No. 02-158-P-C

**ORDER AFFIRMING THE  
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge filed with the Court on January 31, 2003, with copies to the *pro se* Plaintiff and to counsel, her Recommended Decision on Motions for Judgment on the Pleadings (Docket Item No. 104 in Civil No. 01-224-P-C and Docket Item No. 36 in Civil No. 02-158-P-C). Plaintiff filed his objection to the Recommended Decision on February 7, 2003 (Docket Item No. 107 in Civil No. 01-224-P-C and Docket Item No. 39 in Civil No. 02-158-P-C), to which objection Defendants filed their response on February 12, 2003 (Docket Item No. 111 in Civil No. 01-224-P-C and Docket Item No. 43 in Civil

No. 02-158-P-C). Plaintiff filed his reply to Defendants' response on February 21, 2003 (Docket Item No. 112 in Civil No. 01-224-P-C and Docket Item No. 44 in Civil No. 02-158-P-C).<sup>1</sup>

This Court having reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; and this Court having made a *de novo* determination of all matters adjudicated by the Magistrate Judge's Recommended Decision, and concurring with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decision, and having determined that no further proceeding is necessary; it is **ORDERED** as follows:

- (1) The objection of the Plaintiff is hereby **DENIED**.
- (2) The Recommended Decision of the Magistrate Judge is hereby **AFFIRMED**.
- (3) The Motions for Judgment on the Pleadings are hereby **GRANTED**.
- (4) Judgment is hereby **ENTERED** in favor of York County Jail in Civil No. 01-224-P-C.
- (5) The Complaint in Civil No. 02-158-P-C is hereby **DISMISSED** because it does not state a claim against any of the named Defendants.

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<sup>1</sup> In his various objections/responses to the Recommended Decision, Plaintiff has indicated his consent to the Magistrate Judge's recommended decision that all claims against York County and the York County Jail be dismissed. He appears to seek by way of his objections/responses to preserve a right to amend his claims to seek expunction of his underlying criminal convictions.

These claims were not previously set forth in a timely manner and, in any event, the claims made herein are not in any way related to the validity of the underlying criminal convictions. There is no indication that the convictions are implicated, directly or indirectly, in any constitutional violations that are alleged in these two Complaints by Plaintiff. The specified claim of right to amend will be denied.

- (6) Plaintiff's claim to reserve a right to amend the Complaint to assert a new claim to expunge his underlying criminal convictions is hereby **DENIED**.

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GENE CARTER  
Senior District Judge

Dated this 5<sup>th</sup> day of March, 2003.

(In Civil No. 01-224-P-C)  
Plaintiff

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BERT J ALLEN, III

represented by **BERT J ALLEN, III**  
FCI SCHUYLKILL  
PO BOX 759  
MINERSVILLE, PA 17954-0759  
PRO SE

Defendant

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YORK COUNTY JAIL

represented by **MICHAEL J. SCHMIDT**  
WHEELER & AREY, P.A.  
27 TEMPLE STREET  
P. O. BOX 376  
WATERVILLE, ME 04901  
873-7771  
LEAD ATTORNEY  
ATTORNEY TO BE NOTICED

**SCOTT, YORK COUNTY JAIL INMATE**  
TERMINATED: 12/27/2001

**RICHARD, YORK COUNTY JAIL  
INMATE**  
TERMINATED: 12/27/2001

**DANIEL DOUBOUS, individually  
and in their official  
capabilities as officers of  
the York County Jail**

represented by **MICHAEL J. SCHMIDT**  
(See above for address)  
LEAD ATTORNEY

**TAMMY LEONARD, individually  
and in their official  
capabilities as officers of  
the York County Jail.**

represented by **MICHAEL J. SCHMIDT**  
(See above for address)  
*LEAD ATTORNEY*

**SCOTT BARRIEAU**  
*TERMINATED: 06/11/2002*

**RICHARD LOWELL**  
*TERMINATED: 06/11/2002*

**LINDA MOOERS**

represented by **MICHAEL J. SCHMIDT**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

(In Civil No. 02-158-P-C)

**Plaintiff**

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**BERT J ALLEN, III**

represented by **BERT J ALLEN, III**  
FCI SCHUYLKILL  
PO BOX 759  
MINERSVILLE, PA 17954-0759  
PRO SE

**Defendant**

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**YORK COUNTY SHERIFF'S DEPT**

represented by **MICHAEL J. SCHMIDT**  
WHEELER & AREY, P.A.  
27 TEMPLE STREET  
P. O. BOX 376  
WATERVILLE, ME 04901  
873-7771  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**PHILIP COTE, Individually and in  
his official capacity as Sheriff**

represented by **MICHAEL J. SCHMIDT**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**UNKNOWN CORRECTIONAL  
OFFICERS**

represented by **MICHAEL J. SCHMIDT**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*