

Caldwell of the Middle District of Pennsylvania, indicating that Maine originally projected a release date for Harris of October 23, 2016, but that it subsequently recalculated his release under a different “good-time” law to be September 20, 2009. Judge Caldwell dismissed Harris’s habeas petition in the Middle District of Pennsylvania as moot on June 22, 2011, “without prejudice to Petitioner’s right to initiate a civil-rights action in a more appropriate forum.” Harris v. Ebbert, Civ. No. 1:CV-10-0336, (M.D. Pa., 2011). I gather that this lawsuit is Harris’s attempt to do just that. Federal prison officials appear to be involved in the case because Harris was also serving time in federal institutions in addition to the Maine and Ohio sentences, although it is not clear to me whether there was a separate federal conviction in place or whether Harris was serving his Maine and/or Ohio sentence as a transferee to federal custody. (See Doc. Nos. 1-1 – 1-8.) In any event the complaint states sufficient facts that if Harris had complied with my Order and completed an IFP form or paid the filing fee, I would have ordered service on the State defendants in order to more fully develop the record.

However, Harris has not responded to my Order to either file an application to proceed in forma pauperis or pay the filing fee. I therefore conclude that he has failed to properly initiate this case and that this Court has no option but to dismiss the proceeding. Gladwell v. Scofield, 222 Fed. Appx. 750 (10th Cir. 2007).

Accordingly, it is recommended that the Complaint be **DISMISSED without prejudice** for plaintiff’s failure to prosecute this action.

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) (1993) for which *de novo* review by the district court is sought, together with a supporting memorandum, within fourteen (14) days of being served with a copy thereof. A responsive memorandum shall be filed within fourteen (14) 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.

January 13, 2012

/s/ Margaret J. Kravchuk
U.S. Magistrate Judge

HARRIS v. MAGNUSSON et al

Assigned to: JUDGE GEORGE Z. SINGAL

Referred to: MAGISTRATE JUDGE MARGARET J.
KRAVCHUK

Cause: 42:1983 Prisoner Civil Rights

Date Filed: 12/12/2011

Jury Demand: Plaintiff

Nature of Suit: 550 Prisoner: Civil
Rights

Jurisdiction: Federal Question

Plaintiff

ROBERT LEE HARRIS, JR

represented by **ROBERT LEE HARRIS, JR**

141-371

LECI

PO BOX 56

LEBANON, OH 45036

PRO SE

V.

Defendant

MARTIN A MAGNUSSON

*Individually and in his official
capacity as Commissioner of Maine
Department of Corrections*

Defendant

MRS SCOTT V BURNHEIMER

*Individually and in her official
capacity as Superintendent of Maine
Correctional Center*

Defendant

CARL MCHATTEN

*Individually and in his official
capacity as Director of Classification
of Maine Department of Corrections*

Defendant

STEPHEN MAXWELL

*Individually and in his official
capacity as Classification Officer of
Maine Department of Corrections*

Defendant

CHERLY RACKLIFF

*Individually and in her official
capacity as Classification Officer of
Maine Department of Corrections*

Defendant

JEANNE BLAIS

*Individually and in her official
capacity as Classification Officer of
Maine Department of Corrections*

Defendant

DAVID J EBBERT

*Individually and in his official
capacity as Warden of FCI
Allenwood*

Defendant

SUE STOVER

*Individually and in her official
capacity as Records Supervisor for
FCI Allenwood*