

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

AMANDA MONAGHAN,)
)
 Plaintiff,)
)
 v.) 1:13-cv-00395-JCN
)
JOSEPH FITZPATRICK,)
)
 Defendant)

MEMORANDUM OF DECISION

In this action, Plaintiff Amanda Monaghan challenges the constitutionality of a prison policy maintained by the Maine Department of Corrections, which policy permits the Department to bar all communication, including correspondence, between an inmate and a person “known” to have been a victim of domestic violence perpetrated by the inmate.

The matter is before the Court on Plaintiff’s Motion for an Enlargement of Time to Respond to Order on Joint Motion to Waive Doctrine of Mootness. (ECF No. 84.) As explained below, the Court denies the motion, and dismisses this action.

Background

On February 20, 2015, the Court denied the parties’ cross-motions for summary judgment. (ECF No. 76.) Following the denial of the motions for summary judgment, because the record suggested that the person with whom Plaintiff wanted contact was no longer in custody, the Court convened a conference of counsel to discuss whether any issues remained for trial.

During the conference, the parties confirmed that the person (Robert Hart) was no longer in custody. The parties, however, believed that the matter remained in order for a determination by the Court. Because the Court believed that Mr. Hart’s release from custody might have mooted

the issues in the case, the Court ordered the parties to file written argument to support their contention that the Court should consider the matter despite Mr. Hart's release from custody. (ECF No. 79.) In response to the Court's order, the parties filed a Joint Motion to Waive the Doctrine of Mootness. (ECF No. 80.) On June 22, 2015, the Court denied the motion. (ECF No. 83.) As part of its decision on the motion, the Court ordered the parties to show cause on or before September 1, 2015, as to why the matter should not be dismissed. In response to the Court's order, Defendant asserted "that he knows of no reason why this case should not be dismissed as moot." (ECF No. 86.)

Through the present motion, Plaintiff seeks additional time within which to respond to the show cause order. Defendant opposes the motion, and argues that the Court should dismiss the matter. (ECF Nos. 85, 86.) On September 10, 2015, the Court conducted a telephonic hearing on the motion. During the hearing, Plaintiff's counsel acknowledged that Plaintiff seeks additional time to locate another plaintiff who might be similarly situated and can be substituted for Plaintiff, or to determine whether recent criminal charges filed against Mr. Hart will result in his incarceration with the Department of Corrections, which incarceration might subject Plaintiff to the Department policy that is the subject of this action.¹

Discussion

As explained in the Order on Joint Motion to Waive the Doctrine of Mootness (ECF No. 83), because Mr. Hart is no longer subject to the Department policy that Plaintiff challenges in this action, the matter is moot. Plaintiff seeks additional time to identify another individual who is currently subject to the policy. Plaintiff also cites the possibility that Mr. Hart could be subject to the policy again in the near future. In support of her request for additional time, Plaintiff notes the

¹ During the telephonic hearing, Plaintiff also informed the Court that Plaintiff offers the same argument (i.e., the desire for more time to identify a substitute plaintiff) as to why the matter should not be dismissed.

complexity and importance of the central issue in the case, and the extensive work that the parties and the Court have devoted to the matter. In other words, Plaintiff contends that judicial economy militates in favor of allowing Plaintiff additional time to identify a substitute party, or in favor of more time to determine the likely the resolution of Mr. Hart’s current criminal charges.²

While the Court appreciates the importance of the issue to the parties, and the resources that the parties have invested in this case, the Court cannot disregard the legal principles that must govern the mootness analysis. That is, except to the extent that judicial economy is a consideration in the Court’s determination whether the matter constitutes an exception to the mootness doctrine as a dispute that is “capable of repetition yet evading review,” *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67 (1997) (quoting *S. Pac. Terminal Co. v. I.C.C.*, 219 U.S. 498, 515 (1911), and citing *Roe v. Wade*, 410 U.S. 113, 125 (1972)), which exception the Court previously determined is inapplicable (ECF No. 83), judicial economy considerations are generally not recognized as exceptions to the mootness doctrine. *Friends of the Earth, Inc. v. Laidlaw Env’tl. Servs. (TOC), Inc.*, 528 U.S. 167, 191 – 92 (2000) (explaining that the “sunk cost” argument “does not license courts to retain jurisdiction over cases in which one or both of the parties plainly lack a continuing interest”).

The Court, therefore, is not persuaded that the matter can or should proceed based on judicial economy considerations. In addition, given the length of time during which this matter

² The fact that Mr. Hart has pending criminal charges does not alter the Court’s mootness analysis. On this record, the Court cannot determine the likelihood that Mr. Hart would be convicted on the charges, that he would receive a sentence to the Department of Corrections, and that he would be subject to the policy. In the event that Plaintiff is again denied contact with Mr. Hart due to the policy, Plaintiff would not be foreclosed from initiating a new action. *Pujol v. Shearson/American Express, Inc.*, 829 F.2d 1201, 1209 n.3 (1st Cir. 1987) (explaining that an action dismissed as moot has no res judicata effect); *see also Reicher v. Berkshire Life Ins. Co. of Am.*, No. 1:02-cv-10868, 2002 WL 31426758, at *1 (D. Mass.) To the extent Plaintiff is concerned that in any subsequent action, she might not have the benefit of the discovery conducted in this case, judicial economy considerations could inform the Court’s management of any future case that Plaintiff might assert. For instance, certain discovery conducted in this matter could be used in another related matter. *See, e.g.*, Fed. R. Civ. P. 32(a)(8).

has been pending, and the length of time that Plaintiff has been afforded to identify a substitute plaintiff, to extend further the time for Plaintiff to identify an alternative party or to await the disposition of Mr. Hart's pending criminal matter would be unreasonable.³

Conclusion

Based on the foregoing analysis, the Court denies Plaintiff's Motion for an Enlargement of Time to Respond to Order on Joint Motion to Waive Doctrine of Mootness. (ECF No. 84.) Furthermore, after considering Plaintiff's argument as to why the matter should not be dismissed,⁴ the Court finds no legitimate basis not to dismiss the matter as moot. Accordingly, based on the findings and reasoning set forth in the Order on Joint Motion to Waive the Doctrine of Mootness (ECF No. 83), the Court dismisses this matter as moot.

/s/ John C. Nivison
U.S. Magistrate Judge

Dated this 24th day of September, 2015.

MONAGHAN v. FITZPATRICK

Assigned to: MAGISTRATE JUDGE JOHN C.

NIVISON

Cause: 42:1983 Prisoner Civil Rights

Date Filed: 10/24/2013

Jury Demand: Plaintiff

Nature of Suit: 440 Civil Rights:

Other

Jurisdiction: Federal Question

Plaintiff

AMANDA MONAGHAN

*individually and as parent and next
friend of HXH and JJM*

represented by **DAVID SOLEY**

**BERNSTEIN SHUR SAWYER &
NELSON
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TOWER**

³ Given that the Court issued its order denying the parties' request to waive mootness on June 22, Plaintiff has now effectively had more than three months to identify another plaintiff, which time includes more than three weeks after the show cause deadline of September 1. Without any information to suggest that a request to substitute a party for Plaintiff is imminent, a further extension of time would unnecessarily delay resolution of this matter.

⁴ The Court considered Plaintiff's motion for extension of time and Plaintiff's arguments during the telephonic hearing to constitute Plaintiff's response to the Court's order that the parties show cause as to why the matter should not be dismissed.

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Defendant

JOSEPH FITZPATRICK
*In his official capacity as Acting
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Department of Corrections*

represented by **DIANE SLEEK**
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