

UNITED STATES DISTRICT COURT
District of Maine

MAREK A. KWASNIK,)
)
 Plaintiff,)
)
 v.) Civil No. 04-260-P-S
)
 BARBER FOODS, INC., et al.,)
)
 Defendants.)

ORDER AFFIRMING
THE RECOMMENDED DECISION OF THE MAGISTRATE JUDGE
AND DENYING PLAINTIFF'S MOTION FOR LEAVE TO AMEND

The United States Magistrate Judge filed with the Court on March 11, 2005, her Recommended Decision (Docket No. 13). Plaintiff filed his Objection to the Recommended Decision (Docket No. 14) on March 22, 2005. Defendants filed their Response (Docket No. 17) to those objections on April 1, 2005. I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision, and determine that no further proceeding is necessary.

After the Magistrate Judge issued the Recommended Decision, Plaintiff again moved for leave to amend his complaint and join parties (Docket No. 15). Defendants move to strike the motion for leave to amend (Docket No. 18) (or, in the alternative, dismiss the amended complaint), arguing that amendment would be futile. Having examined Plaintiff's proposed amended complaint (Docket No. 15), the Court finds that the proposed amendments are not sufficient to render Plaintiff's claims cognizable under § 1983. Joining state officials with vague and conclusory accusations of bias and misconduct does not solve the Plaintiff's state action problem. (See Recommended Decision (Docket No. 13), at 4-7.) Thus, as the Magistrate Judge concluded with regard to the first amended Complaint, the Plaintiff's latest proposed amendments to the complaint are futile, and, accordingly, his Motion for Leave to Amend must be denied.¹

1. It is therefore ORDERED that the Recommended Decision of the Magistrate Judge is hereby AFFIRMED.
2. The Magistrate Judge's denial of Plaintiff's motion to amend contained within his opposition to defendants' Motion to Dismiss Plaintiff's

1. Defendants request that the Court either strike Plaintiff's motion or dismiss Plaintiff's amended complaint. (See Docket No. 18) The Court agrees with the substance of Defendants' argument, but declines to adopt either of their suggested remedies. Denial of Plaintiff's motion adequately resolves the issue.

Amended Complaint (Docket No. 10) is AFFIRMED.

3. Defendants' motions to dismiss this action (Docket Nos. 4 & 9) are GRANTED for the reasons stated in the Magistrate Judge's Recommended Decision. Plaintiff's claims under federal law are dismissed WITH PREJUDICE. Plaintiff's claims under state law are dismissed WITHOUT PREJUDICE.
4. Plaintiff's Motion for default or for summary judgment (Docket No. 11) is MOOTED by the dismissal of his claims.
5. Plaintiff's second Motion for Leave to Amend Complaint (Docket No. 15) is DENIED.

/s/ George Z. Singal
Chief United States District Judge

Dated this 5th day of May, 2005.

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Executive Officer of Barber Foods
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ATTORNEY TO BE NOTICED

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