

UNITED STATES DISTRICT COURT
District of Maine

JEFFREY LIBBY,)
)
Plaintiff,)
)
v.) Civil No. 03-35-B-W
)
JEFFREY MERRILL,)
)
Defendant.)

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

The United States Magistrate Judge filed with the Court on July 29, 2003 her Recommended Decision. The Defendant filed his objections to the Recommended Decision on August 14, 2003. 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 her Recommended Decision, and determine that no further proceeding is necessary.

1. It is therefore ORDERED that the Recommended Decision of the Magistrate Judge is hereby AFFIRMED.
2. It is further ORDERED that Defendant's Motion to Dismiss is DENIED.

3. It is further ORDERED that that portion of Count I dealing with the official capacity claim only be dismissed, leaving Count I against Merrill in his individual capacity.
4. It is further ORDERED that Counts II and III of Plaintiff's Complaint are DISMISSED as they do not state a claim for injunctive relief.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
United States District Judge

Dated: November 7, 2003

JEFFREY LIBBY

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V.

Defendant

JEFFREY MERRILL,
*Individually and in his official
capacity as Warden*

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