

this Court after Plaintiff has exhausted all state remedies. *Id.* The documents attached to his Complaint indicate he was first recommended for the TC program in October, 1999, and first disciplined for his failure to participate in January, 2000. There is no indication that he has made any attempt to obtain state court relief on this issue.

Further, to the extent the Complaint is properly brought under section 1983, it must be dismissed for Plaintiff's failure to avail himself of the grievance procedure available to him at the Maine Correctional Center. 42 U.S.C. § 1997e(a), as amended by the Prison Litigation Reform Act of 1995 ("the PLRA") ("No action shall be brought . . . under section 1983 of this title . . . until such administrative remedies as are available are exhausted."). In his Complaint, which is solely one for injunctive relief, Plaintiff states that a grievance procedure is available at the institution and that he has not presented his Complaint in that state grievance procedure. The only explanation offered is "grievance procedure cannot rectify". The PLRA mandates that Plaintiff exhaust the available administrative remedies before filing his section 1983 claim in this Court. *Murphy v. Magnusson, et al.*, 1999 WL 615895 (D. Me.).

In addition, the "State of Maine," "Department of Corrections," and "Spectrum Behavioral Service" are simply not "persons" within the meaning of section 1983. *See Will v. Michigan Dept. of State Police*, 491 U.S. 58 (1989) (finding the same for the State Police). They are the only entities named as defendants in this action.

Conclusion

For the foregoing reasons, I hereby recommend this Complaint be DISMISSED in its entirety for Plaintiff's failure to state a claim upon which relief may be granted.

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) (1988) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) 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.

Margaret J. Kravchuk
United States Magistrate Judge

Dated on: May 12, 2000

U.S. District Court
District of Maine (Portland)

CIVIL DOCKET FOR CASE #: 00-CV-129

CRONIN v. CORRECTIONS, ME DEPT, et al
Assigned to: JUDGE GENE CARTER
Demand: \$0,000
Lead Docket: None
Dkt# in other court: None
Cause: 42:1983 Prisoner Civil Rights

Filed: 05/01/00

Nature of Suit: 555
Jurisdiction: Federal Question

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plaintiff

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v.
CORRECTIONS, ME DEPT
defendant

SPECTRUM BEHAVIORAL SERVICE
defendant