

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

JOHN GARRETT,)	
)	
PLAINTIFF)	
)	
v.)	CIVIL No. 00-384-P-H
)	
TANDY CORPORATION D/B/A)	
RADIO SHACK,)	
)	
DEFENDANT)	

ORDER AFFIRMING RECOMMENDED DECISION OF THE MAGISTRATE JUDGE

The United States Magistrate Judge filed with the court on May 30, 2003, with copies to counsel, his Memorandum Decision on Defendant's Motion to Strike and Recommended Decision on Defendant's Motion for Summary Judgment. After receiving additional time, the plaintiff filed an objection to the Recommended Decision and a request for oral argument on June 20, 2003. Oral argument was held on July 18, 2003.

I have reviewed and considered the Memorandum Decision and **AFFIRM** the rulings on the motions to strike as not clearly erroneous nor contrary to law.

I have reviewed and considered the Recommended Decision, together with the entire record; I have made a *de novo* determination of all matters adjudicated by the Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge, and determine that no further proceeding is necessary.

I considered certifying the scope of Maine's public accommodations law, 5 M.R.S.A. § 4592(1), to the Maine Law Court. The Maine statute does, after all, have broader language than the federal statute (Title II of the Civil Rights Act, 42 U.S.C. § 2000a), and the Maine Law Court has never addressed its scope. I conclude, however, that even if the Maine statute is interpreted as broadly as the plaintiff seeks, the plaintiff does not have enough to get to a jury. When all is said and done and regardless of what prima facie case analysis, if any, is used, there must be enough to go to a jury to support a jury finding of racial discrimination by the defendant. The summary judgment record here simply would not support such a finding by a preponderance of the evidence, as the Magistrate Judge properly recognized. The plaintiff understandably is offended by his police treatment, and by what happened when he called Radio Shack thereafter, but a jury could find racial discrimination on the part of Radio Shack only by speculating (as distinguished from drawing reasonable inferences from circumstantial evidence).

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **ADOPTED**. The defendant's motion for summary judgment is **GRANTED**.

SO ORDERED.

DATED: JULY 22, 2003

D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE

U.S. District Court
District of Maine (Portland)
Civil Docket For Case #: 00-Cv-384

JOHN GARRETT
plaintiff

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v.

TANDY CORPORATION
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defendant

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