

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

ZACHARY SMITH,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 1:18-cv-00288-NT
v.	)	
	)	
JOSEPH FITZPATRICK, et al.,	)	
	)	
Defendants.	)	

**JOINT STATUS REPORT AND JOINT STIPULATION TO DISMISS  
DEFENDANT GILLEN WITHOUT PREJUDICE**

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure and the Court's docket entry dated October 24, 2018, Plaintiff, Zachary Smith, and Defendants, Commissioner Joseph Fitzpatrick and Acting Sheriff Shawn Gillen, (collectively, "the parties"), hereby file this joint status report and joint stipulation of dismissal, without prejudice, of Defendant Gillen, Acting Sheriff of the Aroostook County Jail.

The current status of the case is that Mr. Smith timely reported to Aroostook County Jail on October 22, 2018. Aroostook County Jail then immediately transported Mr. Smith to Department of Corrections custody in the Maine Correctional Center in Windham, Maine. Mr. Smith is now in the custody of Defendant Fitzpatrick, at the Maine Correctional Center. According to Mr. Smith, the Maine Correctional Center has been providing him with his buprenorphine medication, as required by the dismissal order incorporating the Settlement Agreement with Defendant Fitzpatrick. *See* Order, ECF No. 36 (Oct. 1, 2018).

Mr. Smith did report a problem with the administration of the medication, namely, that he was given only 15 minutes, as opposed to the typical 30 minutes, to absorb the medication

sublingually, before being required to take a drink of water to wash down the remaining medication. This meant that he was not absorbing the full dosage of the medication, and started experiencing some symptoms of withdrawal. However, the Plaintiff's counsel reached out about this problem to the counsel for Defendant Fitzpatrick, who represented that counsel had passed along the message to the relevant officials at Maine Correctional Center, and that the updated policy was to give Mr. Smith 30 minutes to absorb the medication sublingually. Counsel for Defendant Fitzpatrick further stated that Department of Corrections responded to Mr. Smith's complaint on its own, a week before counsel passed on the Plaintiff's concern.

Pursuant to Rule 41(a)(1)(A)(ii), the parties further jointly stipulate to the dismissal, without prejudice, of Defendant Gillen, Acting Sheriff of the Aroostook County Jail. By providing immediate transport to the Maine Correctional Center, Defendant Gillen has satisfied his obligations under the agreement with Mr. Smith, *see* Joint Mot. to Stay Proceedings, ECF No. 28 (Sept. 25, 2018), and Mr. Smith will not seek costs or fees against Defendant Gillen. Because there is no imminent risk of Mr. Smith returning to the custody of Defendant Gillen, the parties jointly stipulate to the dismissal, without prejudice, of Defendant Gillen.

Respectfully submitted,

Dated: October 30, 2018

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**CERTIFICATE OF SERVICE**

The undersigned certifies that she has electronically filed this date the foregoing Joint Status Report and Joint Stipulation to Dismiss Defendant Gillen Without Prejudice with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record. This filing is available for viewing and downloading from the ECF system.

Dated: October 30, 2018

/s/ Emma E. Bond

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