

NORMAN DICKINSON

v.

RICHARD CHAREST, et al.

Submitted on briefs April 26, 2000
Decided May 11, 2000

Panel: WATHEN, C.J., and CLIFFORD, RUDMAN, DANA, and
ALEXANDER, JJ.

MEMORANDUM OF DECISION

Norman Dickinson appeals from a judgment of the Superior Court (Cumberland County, *Crowley, J.*) dismissing, without prejudice, his complaint against two probation officers for deprivation of his constitutional rights. On appeal, Dickinson contends that the court erred when it found that his claim was frivolous and denied his application to proceed *in forma pauperis*. A claim is frivolous when it “is obviously without any merit and has been [filed] with no reasonable likelihood of prevailing” *Kezer v. Mark Stimson Associates*, 1999 ME 184, ¶ 10, 742 A.2d 898, 901. Dickinson devotes his entire argument on appeal to the proposition that there is no procedural bar to raising a challenge to probation conditions in a 42 U.S.C. § 1983 action. The Superior Court, however, necessarily found that Dickinson could not have a “reasonable likelihood” of prevailing on his substantive

claims, even if his complaint had no procedural defect. Dickinson has not addressed this substantive issue in his brief. When an appellant fails to mention an issue in the brief or at argument, that issue is deemed abandoned. *See, e.g., Atlantic Acoustical & Insulation Co. v. Moreira*, 348 A.2d 263, 266 n.1 (Me. 1975).

The entry is:

Judgment affirmed.

For plaintiff:

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Defendants were not served.