

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

JAMES WILKINS,

Plaintiff,

v.

CASE NO. 4:12cv145-RH/CAS

DEUTSCHE BANK NATIONAL
TRUST COMPANY et al.,

Defendants.

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ORDER OF DISMISSAL

This case is before the court on the magistrate judge's report and recommendation, ECF No. 8, and the objections, ECF No. 10. I have reviewed *de novo* the issues raised by the objections.

The report and recommendation correctly concludes that the complaint fails to state a claim on which relief can be granted. The report and recommendation sets out three grounds for this conclusion. Any one of the three would be sufficient standing alone to require dismissal of the complaint.

The first ground is that the statute under which the plaintiff seeks relief, 18 U.S.C. § 1038(b), does not apply to this situation at all and in any event does not

provide a private right of action. The second is that the plaintiff has not alleged fraud with particularity as required by Federal Rule of Civil Procedure 9(b). The third is that the plaintiff cannot obtain review in a federal district court of a state court decision.

In response to the report and recommendation, the plaintiff has asked for leave to amend to assert a civil-rights claim instead of a claim under § 1038(b). Even if the plaintiff could otherwise state a civil-rights claim and thus overcome the first two grounds for dismissal set out in the report and recommendation, this still would not cure the third basis for dismissal. Under the *Rooker-Feldman* doctrine, a federal district court cannot hear “cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.” *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). *See also Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983). This is precisely such a case.

Accordingly,

IT IS ORDERED:

The report and recommendation is ACCEPTED and adopted as the court's further opinion. The clerk must enter judgment stating, "This case is DISMISSED." The clerk must close the file.

SO ORDERED on May 21, 2012.

s/Robert L. Hinkle
United States District Judge