

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

MARQUES NOLAN-BEY,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Case No.: 17-1278-EFM
)	
McPHERSON CO. COURT, <i>et al,</i>)	
)	
<i>Defendant.</i>)	

MEMORANDUM and ORDER

This matter comes before the Court on the Report and Recommendation of United States Magistrate Judge Kenneth Gale that the District Court dismiss Plaintiff’s Complaint based upon futility and failure to state a claim upon which relief may be granted. Plaintiff was given fourteen days in which to serve and file his written objections to the recommendation. Plaintiff timely filed, and the matter is ripe for this Court’s consideration.

Judge Gale recommended dismissal upon finding that Plaintiff’s Complaint, while containing “an abundance of allegations and citations to legal authority” was nevertheless “lacking a coherent narrative setting forth what the case is about.” Ultimately, Judge Gale concluded that the case was in essence an appeal of a state court judgment, which appeal would be prohibited by the *Rooker-Feldman* doctrine.¹

In response, Plaintiff filed a document entitled “Affidavit of Fact, Writ of Error, Dismiss & Deny Allege Recommendation of January 11, 2018.” (Doc. 6). Like his initial Complaint, this submission is difficult to follow, though it is much briefer. However, he makes no response to conclusion of Judge Gale that his claims are likely barred by the *Rooker-Feldman* doctrine,

¹ *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).


nor does he otherwise present arguments or authority in support of his claim for a justiciable case. Instead, his response principally complains that his Complaint in this case, which he had styled as “Affidavit of Fact, Notice to Reprimand Judgment” was “an exercise of right & NOT A REQUEST OR PERMISSION – BUT A COMMAND” (capitalization per original). He complains that his Affidavit was changed to a motion, construed to deny him access to the courts and to deny him due process.

Citizen’s access to the Courts is limited to the presentation of a justiciable controversy over which the federal courts (being courts of limited jurisdiction) have jurisdiction. This Court agrees with Judge Gale that, to the extent Plaintiff’s original filing can be read to present a claim, it is a claim which would be barred by law and over which this Court would not have jurisdiction. Plaintiff has done nothing to rebut Judge Gale’s well founded legal conclusion that Plaintiff’s Complaint (however he styles it) fails to state a claim for which relief can be granted. Therefore, the Court adopts Judge Gale’s Report and Recommendation that the case be dismissed.

IT IS THEREFORE ORDERED that the Report & Recommendation of Dismissal, Doc. 5, is here ADOPTED and this case is dismissed for failure to state a claim.

IT IS SO ORDERED.

Dated this 25th day of January, 2018.


ERIC F. MELGREN
UNITED STATES DISTRICT JUDGE