

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

CLARENCE OTIS GIBSON

CIVIL ACTION

VERSUS

NO. 23-5401

BRANDON KENNETH

SECTION "R" (5)

ORDER

Plaintiff Clarence Gibson, proceeding *pro se* and *in forma pauperis*, brought this action under 42 U.S.C. § 1983 against prosecutor Brandon Kenneth in connection with Gibson's alleged wrongful criminal prosecution in Jefferson Parish. Gibson, an inmate at the Dixon Correctional Institute, complains about his 2008 indictment for aggravated rape that resulted in a jury conviction for sexual battery. He alleges that the illegal conviction resulted in a diagnosis of schizophrenia and damage to his reputation, and seeks \$200,000,000 in compensatory damages.¹

On October 30, 2023, Chief Magistrate Judge Michael B. North issued a Report & Recommendation ("R&R"), recommending that the Court dismiss Gibson's complaint with prejudice as frivolous and for failure to state a claim upon which relief can be granted.² Chief Magistrate Judge North

¹ R. Doc. 4.

² R. Doc. 7.

specifically found that Gibson failed to meet the prerequisites for monetary relief established in *Heck v. Humphrey*, 512 U.S. 477 (1994), and that the sole defendant in the case, Kenneth, is entitled to absolute immunity from the lawsuit for his actions or omissions taken in initiating and pursuing Gibson’s criminal prosecution.³ Gibson did not object to the R&R. Therefore, the Court reviews the R&R for clear error. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996); *see also* Fed. R. Civ. P. 72(b) advisory committee’s note (1983) (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”). The Court finds no clear error.

Accordingly, the Court adopts Chief Magistrate Judge North’s R&R as its opinion. Plaintiff’s complaint is DISMISSED WITH PREJUDICE.

New Orleans, Louisiana, this 14th day of November, 2023.


SARAH S. VANCE
UNITED STATES DISTRICT JUDGE

³ *Id.*