

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MITCHELL RIVERA,

Plaintiff,

v.

**5:16-CV-00997
(NAM/TWD)**

FEDERAL BUREAU OF INVESTIGATION, et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

MITCHELL RIVERA

117 Irving Ave.

Liverpool, New York 13088

Plaintiff, pro se

NORMAN A. MORDUE, SENIOR U. S. DISTRICT JUDGE

ORDER

The above matter comes to me following a Report-Recommendation by Magistrate Judge Therese Wiley Dancks, duly filed on the 13th day of September 2016. Following fourteen (14) days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

After careful review of all of the papers herein, including the Magistrate Judge's Report-Recommendation, and no objections submitted thereto, it is

ORDERED that:

1. The Report-Recommendation is hereby adopted in its entirety.
2. The Plaintiff's complaints (Dkt. Nos. 1 and 1-1) are DISMISSED on initial review under 28 U.S.C. § 1915(e)(2)(B)(i)-(iii) in part on sovereign immunity grounds, in part as frivolous, and in part for failure to state a claim.

3. Plaintiff's claims against Defendants under the Second, Third, Eighth, Ninth, and Tenth Amendments and under 15 U.S.C. §§ 2, 13; 17 U.S.C. §§ 5, 11; and 18 U.S.C. §§ 241, 242, 245, 247, and 249, and Bivens claims against the FBI and against Defendants Comey, Vale, Rodriguez, and Venizelos in their official capacities are DISMISSED WITH PREJUDICE.

4. The following claims are DISMISSED WITHOUT PREJUDICE AND WITH LEAVE TO AMEND: (1) Bivens claims, if any, for money damages against Comey, Vale, Rodriguez, and Venizelos in their individual capacities; (2) claims for injunctive relief against the FBI, Comey, Vale, Rodriguez, and Venizelos; and (3) Plaintiff's § 1983 claim against Defendant Schneiderman.


5. If plaintiff wishes to proceed with the claims referenced in the previous paragraph, he must file an amended complaint within thirty (30) days from the date of filing of this order.

6. If plaintiff chooses to file an amended complaint, he should include all of his claims in a single amended complaint which shall supercede and replace his two original complaints in their entirety; and that he include in his amended complaint factual allegations describing the incidents of alleged wrongdoing and the role of each named defendant therein sufficiently to allow the Court to assess whether a plausible claim has been stated against them.

7. The Clerk of the Court shall serve a copy of this Order upon all parties and the Magistrate Judge assigned to this case.

IT IS SO ORDERED.

Dated: October 17, 2016
Syracuse, New York


Norman A. Mordue
Senior U.S. District Judge