

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

JOHNNY WILLIAM BOYDE,

Plaintiff,

vs.

**5:21-CV-1277
(TJM/TWD)**

JOSEPH E. FAHEY,

Defendants.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

The Court referred this *pro se* civil action, brought pursuant to 42 U.S.C. § 1983, to Magistrate Judge Thérèse Wiley Dancks for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). As far as can be ascertained from the Complaint, Plaintiff appears to allege that a conviction in Onondaga County, New York violated his constitutional rights. His Complaint names the Judge who allegedly presided over his case.

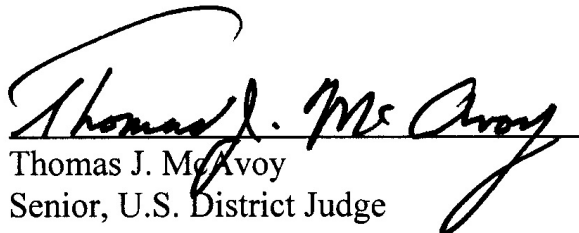
Plaintiff filed a motion to proceed *in forma pauperis*, and Judge Dancks therefore gave the Complaint an initial review to determine whether service was appropriate. Judge Dancks's Report-Recommendation, dkt. # 5, issued on December 21, 2021, recommends that the Court dismiss the Complaint with leave to file an Amended Complaint. Judge Dancks finds that Plaintiff has failed to state a claim upon which relief could be granted.

The judge who presided over Plaintiff's criminal case, she finds, likely enjoys absolute judicial immunity for any claims against him. Moreover, any claims Plaintiff might have are likely barred by the three-year statute of limitations in Section 1983 cases. Still, since Plaintiff proceeds *pro se*, Judge Dancks recommends that he be provided an opportunity to re-plead

Plaintiff did not object to the Report-Recommendation, and the time for such objection has passed. Plaintiff instead filed an Amended Complaint and another motion for leave to proceed *in forma pauperis*. See dkt. #s 7-8. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

The Report-Recommendation of Magistrate Judge Dancks, dkt. # 5, is hereby **ACCEPTED** and **ADOPTED**. Defendant's Complaint is hereby **DISMISSED WITH LEAVE TO AMEND**. Plaintiff's Amended Complaint and motion for leave to proceed *in forma pauperis*, dkt. #s 7-8, are hereby **REFERRED** to Judge Dancks for another Report-Recommendation. .

IT IS SO ORDERED.


Thomas J. McAvoy
Senior, U.S. District Judge

Dated: April 14, 2022