

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

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**JOHN W. HARRIS,**

**Plaintiff,**

**v.**

**6:13-CV-1491**

**KENNETH F. CASE, et al.,**

**Defendants.**

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**THOMAS J. MCAVOY,  
Senior United States District Judge**

**DECISION & ORDER**

**I. INTRODUCTION**

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred by this Court to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

In his Order and Report-Recommendation, Magistrate Judge Baxter ordered that Plaintiff's *in forma pauperis* application (Dkt. No. 5) be granted, and recommended that the action be dismissed in its entirety pursuant to 28 U.S.C. § 1915(e)(2)(B)(i)-(iii) based on absolute immunity, for failure to state a claim upon which relief can be granted, and as frivolous. See Rep. Rec. & Order, Dkt. # 6. Plaintiff filed an objection to Magistrate Judge Baxter's recommendation. See Dkt. No. 7.

**II. STANDARD OF REVIEW**

When objections to a magistrate judge's report and recommendation are lodged, the district

court makes a “*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” See 28 U.S.C. § 636(b)(1); see also United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997) (The Court must make a *de novo* determination to the extent that a party makes specific objections to a magistrate’s findings.). “[E]ven a *pro se* party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument.” Machicote v. Ercole, 2011 WL 3809920, at \*2 (S.D.N.Y., Aug. 25, 2011) (citations and interior quotation marks omitted); DiPilato v. 7-Eleven, Inc., 662 F. Supp.2d 333, 340 (S.D.N.Y. 2009) (same).

General or conclusory objections, or objections which merely recite the same arguments presented to the magistrate judge, are reviewed for clear error. Farid v. Bouey, 554 F. Supp. 2d 301, 306 n. 2 (N.D.N.Y. 2008); see Frankel v. N.Y.C., 2009 WL 465645 at \*2 (S.D.N.Y. Feb. 25, 2009). After reviewing the report and recommendation, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1).

### **III. DISCUSSION**

Plaintiff makes objections to specific portions of Magistrate Judge Baxter’s Report-Recommendation and Order, but the objections are wholly conclusory in nature, alleging, essentially, that the magistrate judge wrongly decided certain issues. The Court does not agree. Further, having considered Plaintiff’s objections and having completed a *de novo* review of the issues raised by the objections, the Court accepts and adopts Magistrate Judge Baxter’s

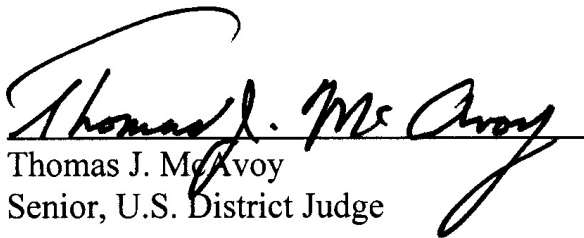
recommendations for the reasons stated in his thorough report.

#### **IV. CONCLUSION**

For the reasons discussed above, the Court accepts and adopts Magistrate Judge Baxter's Order and Report-Recommendation in its entirety. Accordingly, Plaintiff's action is **DISMISSED IN ITS ENTIRETY** pursuant to 28 U.S.C. § 1915(e)(2)(B)(i)-(iii) based on absolute immunity, for failure to state a claim upon which relief can be granted, and as frivolous.

**IT IS SO ORDERED.**

Dated: May 20, 2014

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