

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DOUGLASS E. HOWARD, JR.,	:	
Plaintiff	:	No. 1:17-cv-01044
	:	
v.	:	(Judge Kane)
	:	
ANITA B. SCHWENK,	:	
Defendant	:	

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

On June 14, 2017, Plaintiff Douglass E. Howard, Jr. filed a pro se complaint under 42 U.S.C. § 1983 against Defendant Anita B. Schwenk, the former executrix of an estate, seeking to “upset or otherwise declare void” an adverse state-court order. (Doc. No. 1.) On June 15, 2017, Magistrate Judge Carlson issued a Report and Recommendation (Doc. No. 5), recommending that this Court conditionally grant Plaintiff’s motion for leave to proceed in forma pauperis (Doc. No. 2), and dismiss Plaintiff’s complaint without prejudice to Plaintiff “endeavoring to correct the defects cited” in the Report and Recommendation (Doc. No. 1). In his Report and Recommendation, Magistrate Judge Carlson determined that Plaintiff’s complaint fails to state a claim given that it runs afoul of both the Rooker-Feldman and Younger abstention doctrines. (Doc. No. 5.)

On July 12, 2017, Plaintiff filed a “response pleading” clarifying that the “state courts were improper in their rulings,” asserting that an appellate court “abdicated any pretense of giving fair and impartial consideration,” and requesting, inter alia, that this Court “grant [Plaintiff] time to file an amended complaint with any instructions the court deems proper and a specific deadline of not less than thirty calendars from [the] date of the order.” (Doc. No. 6.) Here, the Court finds that Magistrate Judge Carlson correctly and comprehensively addressed the

substance of Plaintiff's "response pleading" in the Report and Recommendation. (Doc. Nos. 5, 6.) **ACCORDINGLY**, upon independent review of the record and applicable law, on this 18th day of July 2017, **IT IS ORDERED THAT:**

1. Magistrate Judge Carlson's Report and Recommendation (Doc. No. 5), is **ADOPTED**;
2. Plaintiff Douglass E. Howard, Jr.'s motion seeking leave to proceed in forma pauperis (Doc. No. 2), is conditionally **GRANTED**;
3. Plaintiff Douglass E. Howard, Jr.'s complaint (Doc. No. 1), is **DISMISSED WITHOUT PREJUDICE** to Plaintiff filing — within 30 days of the date of this Order — an amended complaint that addresses the defects cited in Magistrate Judge Carlson's Report and Recommendation;
4. The above-captioned action is referred back to Magistrate Judge Carlson for further pre-trial management.

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania