

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE

D’Errico v. City of Bangor et al.

D’Errico · No. 1:26-cv-00221-SDN · Decided May 1, 2026

SUMMARY

The document is a recommended decision after preliminary review in Christopher D’Errico’s action against the City of Bangor and several individuals concerning the seizure and forfeiture of his dogs. The magistrate judge recommends dismissal under 28 U.S.C. § 1915(e)(2)(B), citing the Rooker-Feldman and Younger doctrines, failure to state due process, municipal-liability, ADA, FHA, and Hobbs Act claims, prosecutorial immunity, and lack of state action. The decision was issued with notice of the parties’ fourteen-day objection period.

CASE DETAILS

COURT	United States District Court for the District of Maine
WRITING FOR THE COURT	Karen Frink Wolf
JURISDICTION	United States District Court for the District of Maine
DECIDED	May 1, 2026
DOCKET	1:26-cv-00221-SDN
DISPOSITION	other
PROCEDURAL POSTURE	After granting Plaintiff leave to proceed in forma pauperis, the magistrate judge conducted preliminary review of the complaint under 28 U.S.C. § 1915(e)(2)(B) and recommended dismissal.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B), the court must dismiss an in forma pauperis action that is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief from an immune defendant. Objections to the recommendation are subject to de novo review by the district court under 28 U.S.C. § 636(b)(1)(B).
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- civil procedure
- subject matter jurisdiction
- procedural due process
- section 1983
- ada / disability

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the federal court could review or interfere with the Maine District Court's permanent forfeiture order under the Rooker-Feldman or Younger doctrines.
2. Whether D'Errico stated a procedural due process claim when, by his own allegations, he received notice and a meaningful opportunity to be heard.
3. Whether D'Errico stated a municipal liability claim under 42 U.S.C. § 1983 against the City of Bangor without identifying a municipal policy or custom that caused his injury.
4. Whether the individual defendants were liable under § 1983 where the prosecutor was protected by absolute prosecutorial immunity, the alleged conduct attributed to the animal-control officer was seemingly judicial conduct, and the private citizen was not alleged to act under color of state law.
5. Whether seizure of the dogs stated a viable ADA claim despite an alleged disability.
6. Whether a vehicle in a Walmart parking lot qualified as a dwelling under the Fair Housing Act.
7. Whether the Hobbs Act provided D'Errico a private cause of action.

HOLDINGS

1. The complaint improperly sought federal review of, and interference with or reversal of, a permanent forfeiture order entered by the Maine District Court; such relief was barred by the Rooker-Feldman doctrine and implicated Younger abstention.
2. D'Errico failed to state a procedural due process claim because his own allegations showed that he received notice and a meaningful opportunity to be heard.
3. D'Errico failed to state a § 1983 claim against the City of Bangor because he did not cogently identify a municipal policy or custom responsible for his injuries.
4. The complaint failed to state viable § 1983 claims against the individual defendants because the alleged conduct attributed to the animal-control officer was seemingly judicial conduct, the prosecutor was absolutely immune, and the private citizen was not alleged to act under color of state law.
5. Even assuming D'Errico had a qualifying disability, the ADA did not exempt him or his animals from generally applicable animal-control laws, so the alleged seizure did not state a viable ADA discrimination claim.
6. D'Errico failed to state a Fair Housing Act claim because the dogs were seized from a vehicle in a Walmart parking lot, and the vehicle was not a dwelling within the meaning of the Act.
7. D'Errico could not pursue a private Hobbs Act claim because the Hobbs Act is a criminal statute and provides no private right of action.

KEY QUOTATIONS

"Notice and an opportunity to be heard have traditionally and consistently been held to be the essential requisites of procedural due process."

“the under-color-of-state-law element of § 1983 excludes from its reach merely private conduct, no matter how discriminatory or wrongful.”

“Accordingly, I recommend that the Court DISMISS D’Errico’s complaint pursuant to 28 U.S.C. § 1915(e)(2)(B).”

FACTUAL BACKGROUND

D’Errico alleged that the defendants seized several puppies and emotional-support dogs from his broken-down vehicle in a Walmart parking lot in Bangor. He asserted due process, Americans with Disabilities Act, Fair Housing Act, and Hobbs Act claims and sought return of the dogs and monetary damages. A Maine District Court had entered a permanent forfeiture order concerning the dogs, and D’Errico alleged that he had received notice and an opportunity to be heard.

PROCEDURAL HISTORY

Christopher D’Errico filed a complaint against the City of Bangor and three individual defendants concerning the seizure and forfeiture of dogs. The court granted his application to proceed in forma pauperis. Following preliminary review, the magistrate judge recommended that the complaint be dismissed for lack of jurisdiction over the requested review of a state-court forfeiture order and for failure to state legally cognizable claims.

DISPOSITION

other

REMAND INSTRUCTIONS

The magistrate judge recommended dismissal of the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). The recommendation was subject to objections within fourteen days and de novo review by the district court.

CASES CITED

- Tyler v. Sup. Jud. Ct. of Mass., 914 F.3d 47, 50 (1st Cir. 2019)
- Rossi v. Gemma, 489 F.3d 26, 34-35 (1st Cir. 2007)
- Gorman v. Univ. of R.I., 837 F.2d 7, 12 (1st Cir. 1988)
- Bd. of Cnty. Comm’rs v. Brown, 520 U.S. 397, 403 (1997)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Imbler v. Pachtman, 424 U.S. 409, 427 (1976)
- Am. Mfrs. Mut. Ins. Co. v. Sullivan, 526 U.S. 40, 49-50 (1999)
- Desnoyers v. Green, No. 3:25-cv-1170 (AWT), 2025 WL 4696161, at *5-6 (D. Conn. Sept. 23, 2025)
- Cmty. House, Inc. v. City of Boise, 623 F.3d 945, 968-69 (9th Cir. 2010)
- Peters v. Ervin, No. 2:23-cv-00684-DAD-CKD (PS), 2023 WL 8190514, at *4 (E.D. Cal. Nov. 27, 2023)

OPINION

D'ERRICO

PER CURIAM.

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

CHRISTOPHER D'ERRICO,)

) Plaintiff)) v.) No. 1:26-cv-00221-SDN) CITY OF BANGOR et al.,)) Defendants)

RECOMMENDED DECISION AFTER PRELIMINARY REVIEW

Because I granted Christopher D'Errico's application to proceed in forma pauperis (IFP), see ECF No. 5, his complaint (ECF No. 1) is now before me for preliminary review, see 28 U.S.C. § 1915(e)(2)(B) (providing that a court must, after granting IFP status, "dismiss the case at any time if" it determines that the action "is frivolous or malicious[,] . . . fails to state a claim on which relief may be granted," or "seeks monetary relief against a defendant who is immune from such relief"). D'Errico brings claims against the City of Bangor, "animal control officer" Patricia Bruen, "prosecuting attorney[]" Grace Innis, and "animal rights activist" Laura Roggero relating to the seizure of several puppies and "emotional support" dogs from his "broken down vehicle" in the Walmart parking lot in Bangor. Complaint at 1, 8, 12. He alleges that the Defendants violated his due process rights and contravened the Americans with Disabilities Act (ADA), the Fair Housing Act (FHA), and the Hobbs Act. See *id.* at 25-40. He seeks the return of his dogs and monetary damages. See *id.* at 41. D'Errico's complaint is subject to dismissal for several reasons. First, D'Errico improperly asks this Court to review and interfere with or overturn a permanent forfeiture order relating to the dogs entered by the Maine District Court (Bangor). See *Tyler v. Sup. Jud. Ct. of Mass.*, 914 F.3d 47, 50 (1st Cir. 2019) ("The Rooker-Feldman doctrine bars jurisdiction . . . where the losing party in state court filed suit in federal court after the state proceedings ended, complaining of an injury caused by the state-court judgment and seeking review and rejection of that judgment." (cleaned up)); *Rossi v. Gemma*, 489 F.3d 26, 34-35 (1st Cir. 2007) ("Abstention [under the Younger abstention doctrine] is appropriate when the requested relief would interfere (1) with an ongoing state judicial proceeding; (2) that implicates an important state interest; and (3) that provides an adequate opportunity for the federal plaintiff to advance his federal constitutional challenge."). Second, D'Errico's due process claims against the Defendants fail because by his own description he received notice and a meaningful opportunity to be heard. See *Gorman v. Univ. of R.I.*, 837 F.2d 7, 12 (1st Cir. 1988) ("Notice and an opportunity to be heard have traditionally and consistently been held to be the essential requisites of procedural due process."). Moreover, he has not cogently identified a City practice or policy responsible for his injuries. See *Bd. of Cnty. Comm'rs v. Brown*, 520 U.S. 397, 403 (1997) (holding "that a municipality may not be held liable under [42 U.S.C.] § 1983 solely because it employs a tortfeasor" and that a plaintiff "seeking to impose liability on a municipality" must "identify a municipal 'policy' or 'custom' that caused" his injury). The actions he attributes to Bruen are seemingly actions taken by the Maine District Court. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678

(2009) (holding that a plaintiff must plead sufficient facts to allow “the court to draw the reasonable inference that the defendant is liable for the misconduct alleged”). Innis is entitled to prosecutorial immunity. See *Imbler v. Pachtman*, 424 U.S. 409, 427 (1976) (holding that prosecutors are absolutely immune from liability under section 1983). And he has not cogently explained how Roggero, a private citizen who reported him to animal control, was acting under the color of state law. See *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 49-50 (1999) (“[T]he under-color-of-state-law element of § 1983 excludes from its reach merely private conduct, no matter how discriminatory or wrongful.” (cleaned up)). Third, even assuming D’Errico had a qualifying disability, the ADA does not exempt him from animal control laws. See *Desnoyers v. Green*, No. 3:25-cv-1170 (AWT), 2025 WL 4696161, at *5-6 (D. Conn. Sept. 23, 2025) (“Given the lack of legal authority that a service animal or its owner is exempt from local animal control or public health requirements, plaintiff has no legally viable claim that seizure of the animals on grounds of cruelty or neglect . . . constituted unlawful discrimination under the ADA.”). Fourth, given that D’Errico’s dogs were seized from his vehicle in a Walmart parking lot, he has failed to state a claim under the FHA notwithstanding his incorrect assertion that his vehicle constituted a dwelling. See *Cnty. House, Inc. v. City of Boise*, 623 F.3d 945, 968-69 (9th Cir. 2010) (“The FHA applies only to ‘dwellings.’ 42 U.S.C. § 3604.”); 42 U.S.C. § 3602(b) (“‘Dwelling’ means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families” (emphasis added)). Finally, D’Errico’s Hobbs Act claim fails because the Hobbs Act is a criminal statute and he lacks standing to enforce it. See *Peters v. Ervin*, No. 2:23-cv-00684-DAD-CKD (PS), 2023 WL 8190514, at *4 (E.D. Cal. Nov. 27, 2023) (“[T]he Hobbs Act is a criminal statute, and no private right of action exists to pursue relief under the Hobbs Act. Accordingly, plaintiff’s Hobbs Act claim is legally frivolous.”). Accordingly, I recommend that the Court DISMISS D’Errico’s complaint pursuant to 28 U.S.C. § 1915(e)(2)(B).

NOTICE

A party may file objections to those specified portions of a Magistrate Judge’s report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the District Court is sought, together with a supporting memorandum, within fourteen

(14) days after being served with a copy thereof. A responsive memorandum shall be filed within fourteen (14) days after the filing of the objection. Failure to file a timely objection shall constitute a waiver of the right to de novo review by the District Court and to appeal the District Court’s order. Dated: May 1, 2026 /s/ Karen Frink Wolf United States Magistrate Judge