

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW
HAMPSHIRE

Josephine Amatucci v. Town of Wolfeboro

Amatucci v. Town of Wolfeboro · No. 25-cv-549-SM-AJ · Decided April 8, 2026

SUMMARY

The magistrate judge recommends dismissing Josephine Amatucci’s 42 U.S.C. § 1983 claims against the Town of Wolfeboro arising from an alleged traffic violation and attempt to have her driver’s license reevaluated. The recommendation concludes that the claims are barred by New Hampshire’s three-year statute of limitations and, alternatively, by res judicata. The document advises that objections must be filed within fourteen days.

CASE DETAILS

COURT	United States District Court for the District of New Hampshire
WRITING FOR THE COURT	Andrea K. Johnstone
JURISDICTION	United States District Court for the District of New Hampshire
DECIDED	April 8, 2026
DOCKET	25-cv-549-SM-AJ
DISPOSITION	other
PROCEDURAL POSTURE	A self-represented plaintiff proceeding in forma pauperis filed a 42 U.S.C. § 1983 complaint. On preliminary review under 28 U.S.C. § 1915(e)(2) and Local Rule 4.3(d), the magistrate judge issued a report and recommendation that the district judge dismiss the action as time-barred and barred by res judicata.
STANDARD OF REVIEW	On preliminary review of an in forma pauperis complaint, the court may recommend dismissal if it lacks jurisdiction, the defendant is immune from the relief sought, or the complaint fails to state a claim. Pro se complaints are construed liberally; well-pleaded factual allegations are accepted as true and reasonable inferences are drawn in the plaintiff's favor. A complaint may be dismissed at preliminary review when its allegations establish that the claims are time-barred and no tolling is possible.
PRECEDENTIAL VALUE	Unknown; report and recommendation from a federal district court, with no final adoption or precedential designation stated.

PARTIES

Josephine Amatucci v. Town of Wolfeboro

TOPICS

statute of limitations

res judicata

section 1983

civil procedure

civil rights

PRACTICE AREAS

Civil procedure

Civil rights

Statute of limitations

Municipal liability

Res judicata

QUESTIONS PRESENTED

1. Whether the complaint's § 1983 claims were barred by the applicable statute of limitations.
2. Whether the claims were also barred by res judicata because they arose from the same incident involved in Amatucci's prior litigation.
3. Whether the complaint should be dismissed on preliminary review under 28 U.S.C. § 1915(e)(2) and Local Rule 4.3(d).

HOLDINGS

1. The claims were barred by the applicable statute of limitations because § 1983 claims arising from events in New Hampshire are subject to a three-year limitations period, and the period expired no later than August 2016 for claims arising from the August 2013 events.
2. In addition to being untimely, the claims were barred by res judicata because they arose from the same incident and common nucleus of operative facts involved in Amatucci's prior litigation.

KEY QUOTATIONS

“Where the facts alleged in the complaint show that the claims are time-barred, and there is no possibility that the statute may have been tolled, the court may dismiss the complaint on preliminary review.”

“The doctrine of res judicata establishes that claims arising from the same transaction or a common nucleus of operative facts that have been fully adjudicated on the merits are barred from further litigation.”

FACTUAL BACKGROUND

Amatucci alleged that former Wolfeboro Police Chief Dean Rondeau accused her of a New Hampshire traffic violation and caused the New Hampshire Department of Safety to reevaluate her fitness to drive, allegedly intending to have her license revoked. She asserted that she was not in Wolfeboro when the alleged violation occurred and invoked 42 U.S.C. § 1983, alleging violations of the Fourth and Fourteenth Amendments and municipal responsibility. The court determined from Amatucci's prior lawsuits that the events occurred in August 2013.

PROCEDURAL HISTORY

Amatucci alleged that a former Wolfeboro police chief accused her of a traffic violation and sought reevaluation of her driver's license. The complaint was referred to the magistrate judge for preliminary review. The magistrate

judge recommended dismissal because the claims accrued in August 2013, the three-year limitations period expired in August 2016, and the same-incident claims were also barred by *res judicata*.

DISPOSITION

other

CASES CITED

- *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Ocasio-Hernández v. Fortuño-Burset*, 640 F.3d 1, 12 (1st Cir. 2011)
- *Beaulieu v. Winters*, No. 15-CV-00004-JL, 2015 WL 3507914, at *2 (D.N.H. June 3, 2015)
- *Pigott v. Lynn Police Dep't*, 7 F.3d 218, 1993 WL 375821, at *5 (1st Cir. Sept. 27, 1993)
- *Rose v. Governor, State of New Hampshire*, No. 19-CV-311-LM, 2019 WL 3938081, at *2 (D.N.H. July 12, 2019)
- *Rose v. NH*, No. 19-CV-311-LM, 2019 WL 3935365 (D.N.H. Aug. 19, 2019)
- *Rose v. Sununu*, No. 19-2039, 2020 WL 6472396 (1st Cir. June 8, 2020)
- *Gorelik v. Costin*, 605 F.3d 118, 121 (1st Cir. 2010)
- *Amatucci v. Welman, et al.*, Civ. No. 14-cv-164-PB (D.N.H. filed Apr. 7, 2014)
- *Amatucci v. Town of Wolfeboro*, Civ. No. 13-cv-501-PB (D.N.H. filed Oct. 15, 2013)
- *Rafsky v. Smallbizpros, Inc.*, No. CV 20-11148-TSH, 2024 WL 1178375, at *2 (D. Mass. Mar. 19, 2024)
- *Airframe Sys., Inc. v. Raytheon Co.*, 601 F.3d 9, 12 (1st Cir. 2010)
- *Santos-Santos v. Torres-Centeno*, 842 F.3d 163, 168 (1st Cir. 2016)

OPINION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE Josephine Amatucci v. Case No. 25-cv-549-SM-AJ Town of Wolfeboro REPORT AND RECOMMENDATION Self-represented plaintiff Josephine Amatucci, appearing in forma pauperis, has filed a complaint (Doc. No. 1) against the Town of Wolfeboro, New Hampshire, alleging that its police chief violated her constitutional rights by accusing her of a traffic violation and attempting to have her driver's license revoked.¹ Mrs. Amatucci's complaint is before the undersigned magistrate judge for preliminary review.

See 28 U.S.C. § 1915(e)(2); LR 4.3(d)(2). Standard of Review The magistrate judge conducts a preliminary review of pleadings, like Mrs. Amatucci's, that are filed in forma pauperis. See LR 4.3(d). The magistrate judge may recommend to the district judge that one or more claims be dismissed if, among other things, the court lacks jurisdiction, a defendant is 1 Mrs. Amatucci asserted several other claims in her complaint that arose out of events subject to filing restrictions and are therefore not before the court.

See Order (Doc. No. 2). immune from the relief sought, or the complaint fails to state a claim upon which relief may be granted. See 28 U.S.C. § 1915(e)(2); LR 4.3(d). In conducting its preliminary review, the court construes pro se complaints liberally. See *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam).

The complaint must contain “sufficient factual matter, accepted as true, to ‘state a claim to relief.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation omitted). The court treats as true all well-pleaded factual allegations, and construes reasonable inferences in plaintiff’s favor. See *Ocasio-Hernández v. Fortuño-Burset*, 640 F.3d 1, 12 (1st Cir. 2011).

Background Mrs. Amatucci claims that Dean Rondeau, the former Wolfeboro Chief of Police, accused her of a traffic violation in New Hampshire and ordered the New Hampshire Department of Motor Vehicle to re-evaluate her fitness for a driver’s license, with the intent of having her license revoked. Compl. (Doc. No. 1) ¶ 7. She further alleges that she was able to prove that she was not in Wolfeboro at the time of the alleged traffic violation.

Invoking 42 U.S.C. § 1983, she claims that former Chief Rondeau violated her Fourth and Fourteenth Amendment rights and that the Town of Wolfeboro is responsible for his actions. Mrs. Amatucci does not indicate in her complaint when the incident with former Chief Rondeau took place.

However, based on two other cases Mrs. Amatucci has filed in this court in 2013 and 2014, it is apparent that the events took place in August 2013. See *Amatucci v. Welman, et al.*, Civ. No. 14-cv-164-PB (D.N.H. filed Apr. 7, 2014), Compl. (Doc. No. 1) ¶ 10 (“This was a bogus traffic violation as the plaintiff was not in Wolfeboro on August 21, 2013 at 12 noon.”); *Amatucci v. Town of Wolfeboro*, Civ.

No. 13-cv-501-PB (D.N.H. filed Oct. 15, 2013), Compl. (Doc. No. 1) ¶ (n) (“On August 28, 2013, the Plaintiff received a letter from the Department of Safety... ordering her to appear for a... road test... due to information from the Wolfeboro Police Department, Lt. Rondeau, that she was driving erratically....”). Discussion The passage of roughly twelve years between the incident in question and the filing of this lawsuit raises the question of whether the complaint was filed within the applicable statute of limitations.

See *Beaulieu v. Winters*, No. 15-CV-00004-JL, 2015 WL 3507914, at *2 (D.N.H. June 3, 2015) (“Where the facts alleged in the complaint show that the claims are time-barred, and there is no possibility that the statute may have been tolled, the court may dismiss the complaint on preliminary review.) (citing *Pigott v. Lynn Police Dep’t*, 7 F.3d 218, 1993 WL 375821, at *5 (1st Cir.

Sept.27, 1993)). It is clear from the facts in the instant complaint and her two previous lawsuits Ms. Amatucci has filed based on the same incident that her claims are barred by the applicable

statutes of limitations. Section 1983 cases borrow the relevant limitations period applied in personal injury cases in the state where the claim arose. *Rose v. Governor, State of New Hampshire*, No. 19-CV-311-LM, 2019 WL 3938081, at *2 (D.N.H.

July 12, 2019), report and recommendation adopted sub nom. *Rose v. NH*, No. 19-CV-311-LM, 2019 WL 3935365 (D.N.H. Aug. 19, 2019), aff'd sub nom. *Rose v. Sununu*, No. 19-2039, 2020 WL 6472396 (1st Cir. June 8, 2020). The statute of limitations for § 1983 claims arising out of events occurring in New Hampshire is three years. See *Gorelik v. Costin*, 605 F.3d 118, 121 (1st Cir.

2010); see also N.H. Rev. Stat. Ann. § 508:4. As noted above, the allegedly fraudulent traffic violation and ensuing report to the Department of Safety occurred in August 2013. The three-year limitations period for filing suit concerning that occurrence expired no later than August 2016. Nothing in the complaint suggests that the limitations period should be tolled to allow the court to deem it timely filed.

Accordingly, the statute of limitations bars Mrs. Amatucci's claims.^{2 2} The court also dismissed several claims in *Amatucci v. Welman* based on the same incident as alleged here because they failed to state a federal claim upon which relief could be granted. See *id.*, May 19, 2014, Order (Doc. No. 5).

Thus, in Conclusion Based on the foregoing, Mrs. Amatucci's claims are barred by the applicable statute of limitations. The District Judge should therefore dismiss this case. Any objections to this Report and Recommendation must be filed within fourteen days of receipt of this notice. Fed. R. Civ. P. 72(b)(2).

The fourteen-day period may be extended upon motion. Failure to file any objection within the specified time waives the right to appeal the district court's Order. See *Santos-Santos v. Torres-Centeno*, 842 F.3d 163, 168 (1st Cir. 2016). Only those issues raised in the objection(s) to this Report and Recommendation "are subject to review in the district court." *Id.* (cleaned up).

Additionally, any issues "not preserved by such objection are precluded on appeal." *Id.* Andrea K. Johnstone United States Magistrate Judge April 8, 2026 cc: Josephine Amatucci, pro se addition to the expiration of the statute of limitations, this suit is barred by the doctrine of res judicata. See *Rafsky v. Smallbizpros, Inc.*, No. CV 20-11148-TSH, 2024 WL 1178375, at *2 (D.

Mass. Mar. 19, 2024) ("The doctrine of res judicata establishes that claims arising from the same transaction or a common nucleus of operative facts that have been fully adjudicated on the merits are barred from further litigation.") (citing *Airframe Sys., Inc. v. Raytheon Co.*, 601 F.3d 9, 12 (1st Cir. 2010)).

