

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

BRYAN ANTHONY REO	:	Case No. 1:19-CV-2589
	:	
Plaintiff,	:	Judge Boyko
	:	Magistrate Judge Parker
v.	:	
	:	<b>DEFENDANTS HON. PATRICK</b>
MARTIN LINDSTEDT, et al.	:	<b>CONDON AND THE LAKE COUNTY</b>
	:	<b>COURT OF COMMON PLEAS'</b>
Defendants	:	<b>RESPONSE TO THIRD-PARTY</b>
	:	<b>PLAINTIFFS' OBJECTION TO THE</b>
	:	<b>MAGISTRATE'S REPORT AND</b>
	:	<b>RECOMMENDATION</b>

*Pro se* Third-Party Plaintiff Martin Lindstedt (“Lindstedt”) has filed an objection (Doc. 64) to Magistrate Judge Parker’s recommendation that his claims against the Lake County Court of Common Pleas (“Lake County CCP”) and Judge Patrick Condon should be dismissed (Doc. 56). Lindstedt’s Objection has no legal or factual merit, and therefore, it should be overruled and this Court should adopt Magistrate Judge Parker’s Report and Recommendation.

**A. Procedural History**

This case was filed by Plaintiff Brian Reo against Lindstedt. Lindstedt filed an Amended Answer, wherein he named Judge Condon and the Lake County CCP as Third-Party Defendants (Doc. 17). Judge Condon and the Lake County CCP filed a Motion to Dismiss (Doc. 35), arguing: (1) this Court does not have subject matter jurisdiction over Lindstedt’s claims pursuant to the *Rooker-Feldman* doctrine; (2) this Court should abstain from interfering in ongoing state court litigation pursuant to the Younger doctrine; (3) Third-Party Plaintiffs failed to state a claim for declaratory or other relief;

(4) Judge Condon is entitled to absolute judicial immunity; and (5) the Lake County CCP is not a party capable of being sued.

Third-Party Plaintiffs responded to this Motion to Dismiss (Doc. 42) and Judge Condon and the Lake County CCP filed a Reply (Doc. 44). In his Report and Recommendation, Magistrate Judge Parker recommended that this Court grant Judge Condon and the Lake County CCP's Motion to Dismiss because the *Rooker-Feldman* and *Younger* abstention doctrines barred their claims, Third-Party Plaintiffs failed to state a claim for relief against Judge Condon and the Lake County CCP, Judge Condon is entitled to absolute judicial immunity from Third-Party Plaintiff's claims, and the Lake County CCP is not *sui juris*.

Lindstedt filed an Objection to the Report and Recommendation (Doc. 56). However, he fails to identify any incorrect statement of law or fact therein, or any basis for this Court to decline to adopt the Magistrate Judge's recommendation in this case. Lindstedt's Objection should be overruled.

**B. The Magistrate Judge correctly found the *Rooker-Feldman* doctrine bars Lindstedt's Complaint.**

In his Objection, Lindstedt argues under a "pet [cemetery] doctrine of jurisdiction" that a federal court can give equitable relief to a party where a court "breaks the written or unwritten jurisdictional boundaries." Lindstedt cites no support for this doctrine or its application to this case. Doc. 64, PAGEID 607-608.

Again, Lindstedt's own arguments support the application of the *Rooker-Feldman* doctrine in this case as he clearly takes issue with the state court's decision to exercise jurisdiction over him in the underlying case. As explained by Magistrate Judge Parker, the critical question in applying the *Rooker-Feldman* doctrine is "whether the 'source of injury' upon which the plaintiff bases his federal claims is a state-court

judgement.” Doc. 56, PAGEID 525. Lindstedt does not argue his claims are not based on a state court judgment, but generally takes issue with the *Rooker-Feldman* doctrine as a “judge-made” rule. Doc. 64, PAGEID 608. Lindstedt puts forth no legitimate argument to preclude the application of the *Rooker-Feldman* doctrine in this case. The Magistrate Judge correctly found the *Rooker-Feldman* leaves this Court without subject-matter jurisdiction over Third-Party Plaintiffs’ claims against the Judge and the Lake County CCP, and the claims must be dismissed.

**C. The Magistrate Judge correctly found the *Younger* abstention doctrine also applies to bar Third-Party Plaintiffs’ claims.**

In his Report and Recommendation, Magistrate Judge Parker correctly found that this Court should abstain from exercising jurisdiction over Third-Party Plaintiffs’ claims against Judge Condon and the Lake County CCP pursuant to the *Younger* abstention doctrine. Doc. 56, PAGEID 528-529. In his Objection, Lindstedt appears to take issue with this doctrine as a whole and its application to his case, but does not offer any legitimate argument that it does not apply. Doc. 64, PAGEID 609. He acknowledges the underlying litigation is ongoing, and therefore, the Magistrate Judge was correct in recommending that this Court abstain from exercising jurisdiction. *Id.*

**D. The Magistrate Judge correctly found that Third-Party Plaintiffs failed to state a claim.**

Lindstedt’s objection to the Magistrate Judge’s recommendation that Third-Party Plaintiffs’ Complaint be dismissed for failure to state a claim is vulgar and incomprehensible. Suffice it to say that the Magistrate Judge correctly found that Third-Party Plaintiffs’ claims must be construed as a claim under 42 U.S.C. § 1983, and that Third-Party Plaintiffs failed to state a cognizable claim under this statute. DOC. 56, PAGEID 8-10. Third-Party Plaintiffs’ claims are based on allegedly improper rulings by

Judge Condon in the Lake County CCP, and their proper remedy is to appeal to the state appellate court. *Agg v. Flanagan*, 855 F.2d 336, 339 (6th Cir. 1988).

**E. The Magistrate Judge correctly found that Judge Condon is immune from Third-Party Plaintiffs' claims**

Again, in his Objection, Lindstedt does not argue the Magistrate Judge improperly applied the facts or law to his claims. Instead, he appears to reject the concept of judicial immunity as a whole as “judge-made.” Doc. 64, PAGEID 610-611. However, the Magistrate Judge correctly found that Judge Condon had jurisdiction to preside over the underlying case and the act of rendering decisions while presiding over a civil case is clearly a judicial act. *Mireles v. Waco*, 502 U.S. 9, 11-12 (1991). The law of judicial immunity is well settled, and the Magistrate Judge was correct in finding that Judge Condon is immune from Third-Party Plaintiffs' claims. Doc. 56, PAGEID 531-532.

**F. Lindstedt correctly concedes that Lake County CCP is not *sui juris*.**

In his Objection, Lindstedt notes the Magistrate Judge's recommendation that Third-Party Plaintiffs' claims against the Lake County CCP be dismissed because the court is not an entity capable of being sued, acknowledging that “that might be the case today and tomorrow but not for much longer.” Doc. 64, PAGEID 611. The Magistrate Judge was correct in finding the Lake County CCP is not amenable to suit. Doc. 56, PAGEID 532-533; *Malone v. Ct. of Common Pleas of Cuyahoga Cty.*, 45 Ohio St.2d 245, 248, 344 N.E.2d 126 (1976); *Todd v. United States*, 158 U.S. 278 (1985); *Will v. Mich. Dept. of State Police*, 491 U.S. 58, 66-67 (1989)).

**G. Conclusion**

For all the foregoing reasons, and the reasons outlined in their Motion to Dismiss and Reply in Support of their Motion to Dismiss, Judge Condon and the Lake County

Court of Common Pleas respectfully requests that this Court adopt Magistrate Judge Parker's Report and Recommendation and dismiss the claims against them in Third-Party Plaintiffs' Complaint, with prejudice.

Respectfully submitted,

**/s/ Lindsay M. Upton**

LISA M. ZARING (0080659)

LINDSAY M. UPTON (0092309)

MONTGOMERY JONSON LLP

600 Vine Street, Suite 2650

Cincinnati, Ohio 45202

513-768-5207 / [lzaring@mojolaw.com](mailto:lzaring@mojolaw.com)

513-768-5255 / [lupton@mojolaw.com](mailto:lupton@mojolaw.com)

*Counsel for Defendants Hon. Patrick Condon  
and the Lake County Court of Common Pleas*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 11<sup>th</sup> day of September 2020, the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the foregoing has been sent by electronic mail to:

Martin Lindstedt  
[pastorlindstedt@gmail.com](mailto:pastorlindstedt@gmail.com)

**/s/ Lindsay M. Upton**  
LINDSAY M. UPTON (0092309)