

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

**THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, Foley Square, in the City of New York, on the day of September, Two thousand and Four.

PRESENT:

HON. WILFRED FEINBERG,  
HON. RICHARD J. CARDAMONE,  
HON. BARRINGTON D. PARKER,  
*Circuit Judges.*

----- X  
RICHARD FAUCONIER,

*Plaintiff-Appellant,*

-v.-

**SUMMARY ORDER**  
No. 03-7793-cv

COMMITTEE ON SPECIAL EDUCATION, DISTRICT 3,  
NEW YORK CITY BOARD OF EDUCATION,

*Defendant-Appellee.*

----- X

APPEARING FOR APPELLANT: Richard Fauconier, *pro se*  
Troy, NY 12180

APPEARING FOR APPELLEES: Victoria Scalzo, Esq.  
Assistant Corporation Counsel  
Corporation Counsel, City of New York  
New York, NY 10007

1 Appeal from the United States District Court for the Southern District of New York  
2 (Casey, J.).  
3

4 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND**  
5 **DECREED** that the judgment of the said district court be and it hereby is **AFFIRMED**.

Richard Fauconier, *pro se*, appeals the District Court's dismissal of his complaint, in

which he had alleged various claims on behalf of his son as well as on his own behalf under the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400, *et seq.* Familiarity with the underlying facts, procedural context, and specification of appellate issues is assumed.

We review *de novo* the District Court’s dismissal of Fauconier’s complaint. *Rombach v. Chang*, 355 F.3d 164, 169 (2d Cir. 2004) (dismissal under Fed. R. Civ. P. 12(b)(6)); *see also Mackensworth v. S.S. Am. Merch.*, 28 F.3d 246, 252 (2d Cir. 1994) (dismissal for lack of jurisdiction). Because “most *pro se* plaintiffs lack familiarity with the formalities of pleading requirements, we must construe *pro se* complaints liberally, applying a more flexible standard to evaluate their sufficiency than we would when reviewing a complaint submitted by counsel.” *Lerman v. Bd. of Elections*, 232 F.3d 135, 140 (2d Cir. 2000).

To the extent Fauconier raised claims on behalf of his son, the claims were properly dismissed because, pursuant to *Cheung v. Youth Orchestra Found.*, 906 F.2d 59, 61 (2d Cir. 1990), a federal court has an affirmative duty to enforce the rule that “a non-attorney parent must be represented by counsel in bringing an action on behalf of his or her child.” To the extent Fauconier’s claims implicated his own rights, they were properly dismissed as barred by the *Rooker-Feldman* doctrine, because any other outcome would have presumed that Fauconier possessed the authority, as a non-custodial parent, to litigate claims under the IDEA on behalf of his son. Such a result would have called into question the validity of a prior state court determination holding otherwise. *See Phifer v. City of New York*, 289 F.3d 49, 55 (2d Cir. 2002) (noting that the *Rooker-Feldman* doctrine “holds that inferior federal courts lack subject matter jurisdiction over cases that effectively seek review of judgments of state courts and that federal review, if any, can occur only by way of a certiorari petition to the Supreme Court”) (citations and internal quotation marks omitted); *see also D.C. Ct. of App. v. Feldman*, 460 U.S. 462, 482-

86 & n.16 (1983); *Rooker v. Fid. Trust Co.*, 263 U.S. 413, 415-16 (1923).

Accordingly, the decision of the District Court is AFFIRMED.

FOR THE COURT:

Roseann B. MacKechnie, Clerk

By: \_\_\_\_\_