

WALTER MARTINEZ,  
Plaintiff,  
v.  
KENNETH L. WEINSTEIN, *et al.*,  
Defendants.

This matter is before the Court on the plaintiff's application to proceed *in forma pauperis* and his *pro se* complaint. The Court will grant the plaintiff's application and dismiss the complaint in its entirety.

Relevant to this case is the Supreme Court’s holding in *Heck v. Humphrey*, 512 U.S. 477 (1994):

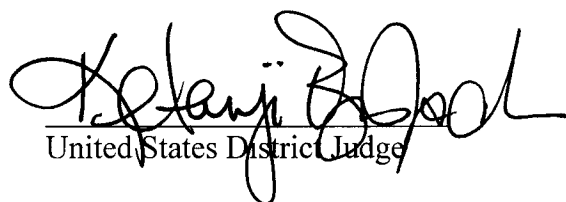
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caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus, 28 U.S.C. § 2254. A claim for damages bearing that relationship to a conviction or sentence that has *not* been so invalidated is not cognizable under § 1983.

*Id.* at 486-47 (emphasis in original). It appears that the plaintiff's success on the claims presented in this action would render his conviction invalid, and absent a showing that his conviction already has been reversed, expunged, or called into question by the issuance of a writ of habeas corpus, he cannot recover monetary damages. *See Williams v. Hill*, 74 F.3d 1339, 1340-41 (D.C. Cir. 1996) (per curiam) (applying *Heck* rationale so that plaintiff "cannot recover damages for the actions of those who allegedly brought about his [criminal] convictions" where plaintiff was found guilty and verdicts had not been overturned); *see also In re Jones*, 652 F.3d 36 (D.C. Cir. 2011) (concluding that plaintiff whose complaint is dismissed under *Heck* "has failed to state a claim for purposes of [28 U.S.C. §] 1915(g)."). Furthermore, all the defendants in this action -- the presiding judge and the prosecutors -- are immune from suit for monetary damages in the circumstances of this case. *See Mirales v. Waco*, 502 U.S. 9 (1991); *Imbler v. Pachtman*, 424 U.S. 409, (1976).

The Court will dismiss the complaint and this civil action for failure to state a claim upon which relief can be granted. *See* 28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A(b)(1). An Order consistent with this Memorandum Opinion is issued separately.

DATE: 12/19/14

  
United States District Judge