

APPENDIX A

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NOT RECOMMENDED FOR PUBLICATION

No. 21-3019

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Nov 01, 2021
DEBORAH S. HUNT, Clerk

MARTIN ROBINSON,

Plaintiff-Appellant,

v.

SHIRLEY STRICKLAND SAFFOLD, Judge; et
al.,

Defendants-Appellees.

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)
) ON APPEAL FROM THE UNITED
) STATES DISTRICT COURT FOR
) THE NORTHERN DISTRICT OF
) OHIO
)
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ORDER

Before: SUTTON, Chief Judge; ROGERS and GRIFFIN, Circuit Judges.

Martin Robinson, an Ohio prisoner proceeding pro se, appeals the district court's order dismissing his 42 U.S.C. § 1983 complaint pursuant to the Prison Litigation Reform Act ("PLRA"), 28 U.S.C. § 1915A. Robinson moves this court for appointment of counsel.

In April 2020, Robinson,¹ along with Gary Robinson and [REDACTED], filed a § 1983 complaint in state court against several defendants, including the Cuyahoga County Sheriff's Department, the Brook Park Police Department, the Cuyahoga County Corrections Center, and various public officials, municipalities, courts, attorneys, and unnamed police officers. Robinson alleged that he was "wrongfully arrested by police officers of the Brook Par[k] Police Department" on October 31, 2017, which "led to wrongful incarcerations and criminal cases" in the [REDACTED] Court.

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¹ Because Robinson's two co-plaintiffs were not named in and did not sign the notice of appeal and they cannot be represented by Robinson, who is not an attorney—they are not parties to this appeal. See Fed. R. App. P. 3(c)(1)(A) (providing that each party taking the appeal must be named in the notice of appeal).

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Municipal Court and the Cuyahoga County Court of Common Pleas “for conspiracy to commit murder and attempted murder/kidnapping.” He sought damages, vacatur of his criminal convictions, and the commencement of criminal proceedings against the defendants.

The defendants thereafter removed the lawsuit to federal court based on federal-question jurisdiction. *See* 28 U.S.C. §§ 1331, 1441(c). The district court then screened Robinson’s complaint pursuant to the PLRA and dismissed it under the holding of *Heck v. Humphrey*, 512 U.S. 477 (1994), because it asserted that his convictions were invalid.

On appeal, Robinson challenges the district court’s dismissal of his complaint.

We review de novo a district court’s decision to dismiss a complaint under § 1915A. *Grinter v. Knight*, 532 F.3d 567, 571-72 (6th Cir. 2008). The PLRA “requires district courts to screen and dismiss complaints that are frivolous or malicious, that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief.” *Id.* at 572. We review the dismissal of claims at the screening stage under the standard set out in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). *Hill v. Lappin*, 630 F.3d 468, 470-71 (6th Cir. 2010). To avoid dismissal, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Iqbal*, 556 U.S. at 678 (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). As a pro se litigant, Robinson is entitled to a liberal construction of his pleadings. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972) (per curiam).

Under *Heck*, a prisoner whose conviction has not been invalidated may not bring a § 1983 action “where success *would necessarily* imply the unlawfulness of a (not previously invalidated) conviction or sentence.” *Wilkinson v. Dotson*, 544 U.S. 74, 81 (2005). Robinson’s complaint alleged that he was illegally arrested and prosecuted “for conspiracy to commit murder and attempted murder/kidnapping” and that he remains wrongfully incarcerated because of those convictions. If we were to accept Robinson’s assertions, and he were to prevail on his false-arrest, malicious-prosecution, and false-imprisonment claims, it would necessarily call into question the propriety of those convictions. *See Watson v. City of Marysville*, 518 F. App’x 390, 392 (6th Cir.

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2013) (applying *Heck* to false arrest and false imprisonment claims). The district court properly dismissed Robinson's complaint.

Finally, Robinson asks for the appointment of counsel on appeal. But a litigant has no constitutional right to counsel in a civil case, and Robinson has not shown that exceptional circumstances exist to warrant the appointment of counsel in this matter. See *Lavado v. Keohane*, 992 F.2d 601, 605-06 (6th Cir. 1993).

Accordingly, we **DENY** Robinson's request for appointment of counsel and **AFFIRM** the district court's judgment.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

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Document: Robinson v. Strickland-Saffold, 2020 U.S. Dist. LEXIS 233311

APPENDIX B

Robinson v. Strickland-Saffold, 2020 U.S. Dist. LEXIS 233311

United States District Court for the Northern District of Ohio, Eastern Division

December 11, 2020, Decided; December 11, 2020, Filed

Case No. 1:20 CV 1330

Reporter

NEED 2-3-2019 COURT.

2020 U.S. Dist. LEXIS 233311 * | 2020 WL 7319129

MARTIN ROBINSON, et al., Plaintiffs v. **SHIRLEY STRICKLAND-SAFFOLD**, et al., DefendantsCore Terms

sentence, invalid, allegations, imprisonment, Corrections, factual allegations, former assistant, incarcerated, wrongfully, arrested, civil rights action, claim for damages, motion to dismiss, plaintiff's claim, police officer, habeas corpus, seek damages, good faith, challenges, determines, certifies, courts

Counsel: [*1] Martin Robinson, Plaintiff, Pro se, Lebanon, OH.Gary **Robinson**, Plaintiff, Pro se.

Maiya McCoy, Plaintiff, Pro se, Cleveland, OH.

For Shirley Strickland-Saffold, Judge, Larry Wallace, Baliff, Cuyahoga County Common Pleas Court, Cuyahoga County Corrections Center, Mike O'Malley, Prosecutor, Hanna M. Smith, Assistant Prosecutor, Cuyahoga County Sheriff's Dept., Defendants: Jillian Eckart, Office of the Prosecuting Attorney - Cuyahoga County, Cleveland, OH.

Judges: SOLOMON OLIVER, JR., UNITED STATES DISTRICT JUDGE.

Opinion by: SOLOMON OLIVER, JR.

Opinion

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MEMORANDUM OPINION AND ORDER

Pro se Plaintiff **Martin Robinson**, an Ohio prisoner incarcerated in the Warren Correctional Institution, filed this civil rights action under 42 U.S.C. § 1983 against numerous governmental entities and employees, including Judge Shirley Strickland-Saffold; the Cuyahoga County Common Pleas Court; the Cuyahoga County Corrections Center; the Cuyahoga County Prosecutor, Michael C. O'Malley, and a former Assistant Prosecuting Attorney, Hannah Smith; the Brook Park Police Department; the Cuyahoga County Sheriff's Department; and several "John Doe" police officers.

In his Complaint, Plaintiff alleges in conclusory fashion that he was "wrongfully arrested," which "led [*2] to wrongful incarcerations." (Doc. No. 1-2 at PageID # 11). He seeks compensation for himself and on behalf of Plaintiffs Gary **Robinson** and Maiya McCoy. (*Id.* at PageID # 10).

I. BACKGROUND

On April 1, 2020, Plaintiff commenced this civil rights action in the Cuyahoga County Common Pleas Court. See **Robinson, et al. v. Strickland-Saffold, et al.**, Cuyahoga County Court of Common Pleas, Case No. CV20-931617 (April 1, 2020). On June 18, 2020, Defendants Cuyahoga County Prosecutor Michael C. O'Malley, the Cuyahoga County Corrections Center, the Cuyahoga County Sheriff's Department, and former Assistant Prosecuting Attorney Hannah Smith filed a Notice of Removal to this Court pursuant to 28 U.S.C. § 1441 *et seq.*

Before **Robinson's** Complaint was screened by the Court under the Prison Litigation Reform Act, Defendants Cuyahoga County Prosecutor Michael C. O'Malley, the Cuyahoga County Corrections Center, the Cuyahoga County Sheriff, the Cuyahoga County Common Pleas Court, Judge Shirley Strickland-Saffold, Bailiff Larry Wallace, and former Assistant Prosecuting Attorney Hannah Smith filed a motion to dismiss **Robinson's** Complaint pursuant to Fed.R.Civ.P. 12(b)(6) (Doc. No. 4).

II. STANDARD OF REVIEW

District courts are required under 28 U.S.C. § 1915A to review [*3] all complaints filed in federal court in which a prisoner seeks redress from a governmental officer or employee, and to dismiss before service any such complaint that the Court determines is frivolous or malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief. *Hill v. Lappin*, 630 F.3d 468, 470-71 (6th Cir.2010).

When determining whether a plaintiff has stated a claim upon which relief can be granted, the court must construe the Complaint in the light most favorable to the plaintiff, accept all factual allegations as true, and determine whether the Complaint contains "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007). The plaintiff's obligation to provide the grounds for relief "requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Id.* at 555. Although a Complaint need not contain detailed factual allegations, its "[f]actual allegations must be enough to raise a right to relief above the speculative level . . . on the assumption that all the allegations in the complaint are true." *Id.* (Citation omitted.). The Court is "not bound to accept as true a legal conclusion couched [*4] as a factual allegation." *Papasan v. Allain*, 478 U.S. 265, 286, 106 S. Ct. 2932, 92 L. Ed. 2d 209 (1986).

The Supreme Court further explained the "plausibility" requirement, stating that "[a] claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009). Furthermore, "[t]he plausibility standard is not akin to a 'probability requirement,' but it asks for more than a sheer possibility that a defendant has acted

unlawfully." *Id.* (quoting *Twombly*, 550 U.S. at 556). This determination is a "context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Id.* at 679.

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III. LAW AND ANALYSIS

Here, Plaintiff alleges that on October 31, 2017, he was wrongfully arrested by police officers of the Brook Park Police Department. He further alleges that this wrongful arrest led to his wrongful incarceration in cases in the Berea Municipal Court and the Cuyahoga County Court of Common Pleas. Plaintiff seeks damages for his alleged wrongful imprisonment.

In order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, "a § 1983 plaintiff [*5] 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 invalidated is not cognizable under § 1983." *Heck v. Humphrey*, 512 U.S. 477, 486-87, 114 S. Ct. 2364, 129 L. Ed. 2d 383 (1994). Therefore, when a state prisoner seeks damages in a § 1983 suit, "the court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated." *Id.* at 487. If, however, the Court determines that the plaintiff's claims, even if successful, will not demonstrate the invalidity of any outstanding criminal judgment against the Plaintiff, the action should be allowed to proceed, in the absence of some other bar to the suit. *Id.*

Here, Plaintiff claims he was wrongfully imprisoned. A judgment of false imprisonment would necessarily imply that his sentence is invalid. He must therefore allege that his sentence was [*6] corrected in the Ohio courts or by a Writ of *Habeas Corpus*. Because the allegations in Plaintiff's Complaint do not suggest that the state sentences he challenges have been reversed on appeal or called into question in any of the ways articulated by *Heck*, Plaintiff cannot proceed with a damages action challenging his sentence. His Complaint therefore fails to allege any plausible damages claim upon which relief can be granted.

IV. CONCLUSION

For the foregoing reasons, this action is dismissed pursuant to 28 U.S.C. § 1915A. In light of the Court's decision that the Complaint is subject to summary dismissal, Defendants' motion to dismiss under Fed. Civ.P. 12(b)(6) is hereby denied as moot.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal from this decision may not be taken in good faith.

IT IS SO ORDERED.

/s/ Shannon Oliver, Jr.

SHANNON OLIVER, JR.

UNITED STATES DISTRICT JUDGE

December 11, 2020

JUDGMENT ENTRY

Pursuant to the Court's contemporaneously filed Memorandum Opinion and Order, this action is dismissed pursuant to 28 U.S.C. § 1915A. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal from this decision may not be taken in good faith.

IT IS SO ORDERED.

/s/ Solomon Oliver, Jr.

SOLOMON OLIVER, JR.

UNITED STATES DISTRICT JUDGE

December 11, 2020

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Content Type: Cases

Terms: Martin Robinson

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No. 21-3019

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Dec 06, 2021

DEBORAH S. HUNT, Clerk

MARTIN ROBINSON,

Plaintiff-Appellant,

v.

SHIRLEY STRICKLAND SAFFOLD, JUDGE; ET AL.,

Defendants-Appellees.

APPENDIX C

ORDER

BEFORE: SUTTON, Chief Judge; ROGERS and GRIFFIN, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

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