UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

OCT 30 2020

PRINCE JONES,

Plaintiff,

v.

MURIEL BOWSER, *et al.*,

Defendants.

Civil Action No. 1:20-cv-02797 (UNA)

DISMISSAL ORDER

This matter is before the Court on its initial review of plaintiff's *pro se* complaint and motion for leave to proceed *in forma pauperis*. The instant complaint is substantially similar to several others filed in this court by plaintiff, including *Jones v. Bowser, et al.*, No. 16-cv-02261 (UNA) (D.D.C. filed Nov. 15, 2016), which was subsequently dismissed for failure to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A(b)(1).

Accordingly, it is hereby **ORDERED** that plaintiff's motion for leave to proceed *in forma pauperis*, ECF No. 2, is **GRANTED**, and it is further

ORDERED that the complaint, ECF No. 2, and this case are **DISMISSED**, for the reasons stated in the memorandum opinion issued in *Jones v. Bowser, et al.*, No. 16-cv-02261 (UNA) (D.D.C. May 19, 2017) (attached).

Date: October 30, 2020

Dabney L. Friedrich

DABNEY L. FRIEDRICH
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PRINCE JONES, Plaintiff,	)	
v.	)	Civil Action No. 16-2261
MURIEL BOWSER, *et al.*, Defendants.	)	

MEMORANDUM OPINION

This matter is before the Court on the plaintiff's application to proceed *in forma pauperis* and his *pro se* complaint. The plaintiff purports to bring this civil rights action under 42 U.S.C. § 1983 against the Mayor of the District of Columbia, the Metropolitan Police Officers who arrested him, the Assistant United States Attorney who prosecuted him, the Public Defender who represented him, and the judges of the Superior Court of the District of Columbia who presided over his criminal case. Generally, the plaintiff alleges that these defendants are responsible for his current incarceration and for assorted constitutional violations committed along the way. He demands compensatory damages of $100 million and punitive damages of $20 million.

Insofar as the plaintiff is mounting a challenge to his Superior Court conviction or sentence, this Court is without jurisdiction to adjudicate the claim. "Under D.C. Code § 23-110, a prisoner may seek to vacate, set aside, or correct sentence on any of four grounds: (1) the sentence is unconstitutional or illegal; (2) the Superior Court did not have jurisdiction to impose the sentence; (3) the sentence exceeded the maximum authorized by law; or (4) the sentence is

subject to collateral attack." *Alston v. United States*, 590 A.2d 511, 513 (D.C. 1991). Such a motion must be filed in the Superior Court, *see* D.C. Code § 23-110(a), and "shall not be entertained . . . by any Federal . . . court if it appears that the [prisoner] has failed to make a motion for relief under this section or that the Superior Court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention," *id.* § 23-110(g); *see Williams v. Martinez*, 586 F.3d 995, 998 (D.C. Cir. 2009) ("Section 23-110(g)'s plain language makes clear that it only divests federal courts of jurisdiction to hear habeas petitions by prisoners who could have raised viable claims pursuant to [§] 23-110(a).").

With respect to the plaintiff's demands for damages, the Supreme Court instructs:

> [I]n 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 . . . 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.

Heck v. Humphrey, 512 U.S. 477, 486-487 (1994). The plaintiff does not demonstrate that his conviction or sentence has been reversed or otherwise invalidated, and, therefore, his claim for damages fails. *See, e.g., Johnson v. Williams*, 699 F. Supp. 2d 159, 171 (D.D.C. 2010), *aff'd sub nom. Johnson v. Fenty*, No. 10-5105, 2010 WL 4340344 (D.C. Cir. Oct. 1, 2010).

The Court will dismiss the complaint 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 is issued separately.

DATE: May 19, 2017

United States District Judge

No. 2013 CF1 018140 (D.C. Super. Ct.) and June 13, 2018 entry. His success here would invalidate that conviction. Therefore, Plaintiff can bring no claim for damages without first invalidating the conviction. *See Heck*, 512 U.S. at 489 (emphasizing that a prisoner "has no cause of action under § 1983 unless and until the conviction or sentence is reversed, expunged, invalidated, or impugned by the grant of a writ of habeas corpus"). Nothing in the instant motion or the Superior Court's docket suggests that has occurred.

Accordingly, it is

ORDERED that Plaintiff's Motion to Reinstate Civil Action, ECF No. 5, is **DENIED**.

/s/
CHRISTOPHER R. COOPER
United States District Judge

Date: December 11, 2020

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-7011 **September Term, 2021**

1:20-cv-02797-UNA

Filed On: July 14, 2022

Prince Jones,

Appellant

v.

District of Columbia, et al.,

Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BEFORE: Henderson, Wilkins, and Katsas, Circuit Judges

JUDGMENT

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing, and the motion to appoint counsel, the motion to supplement the record and the lodged addendum, and the motion for leave to file a statement of non-position and motion for summary affirmance, it is

ORDERED that the motion to appoint counsel be denied. In civil cases, appellants are not entitled to appointment of counsel when they have not demonstrated sufficient likelihood of success on the merits. It is

FURTHER ORDERED that the motion to supplement the record be granted. The Clerk is directed to file the lodged addendum. It is

FURTHER ORDERED AND ADJUDGED that the district court's orders entered on October 30, 2020 (dismissing appellant's complaint), December 11, 2020 (denying

appellant's motion to reopen the case), and December 16, 2020 (denying appellant's motion for relief pursuant to Federal Rule of Civil Procedure 59(e)) be affirmed.

With respect to all of appellant's claims except his false arrest claim and his claim under the Fourth Amendment related to the warrantless use of a cell-site simulator, the district court correctly held that appellant's claims are barred pursuant to Heck v. Humphrey, 512 U.S. 477 (1994). A favorable ruling on any of those claims would necessarily imply the invalidity of his conviction and sentence arising from his guilty plea, and he has not demonstrated that that conviction or sentence has been overturned or otherwise invalidated. Id. at 486-87.

With respect to appellant's cell-site simulator claim and false arrest claim, the court affirms on a ground other than that articulated by the district court. See Chambers v. Burwell, 824 F.3d 141, 143 (D.C. Cir. 2016) (court may affirm on any ground supported by the record). The Superior Court judge appellees are entitled to immunity from these claims, see Sindram v. Suda, 986 F.2d 1459, 1460 (D.C. Cir. 1993), as is appellee Lazarus, see Imbler v. Pachtman, 424 U.S. 409, 430 (1976). Likewise, the police officer appellees are entitled to qualified immunity from claims for damages "so long as their conduct 'does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'" Mullenix v. Luna, 577 U.S. 7, 11 (2015) (quoting Pearson v. Callahan, 555 U.S. 223, 231 (2009)). Because the unconstitutionality of the officers' warrantless use of a cell-site simulator was not "clearly established" at the time they engaged in that conduct, and because appellant's allegation that he was arrested without probable cause arises from that unconstitutional use, qualified immunity shields them from these claims. Furthermore, appellant does not raise in his brief any arguments linking either appellee Bowser or the District of Columbia to these claims. See United States ex rel. Totten v. Bombardier Corp., 380 F.3d 488, 497 (D.C. Cir. 2004) (arguments not raised on appeal are forfeited). It is

FURTHER ORDERED that the motion for leave to file a statement of non-position and motion for summary affirmance be dismissed as moot. Appellant has raised no claims against appellee Whitehead related to the cell-site simulator or false arrest issues, and has therefore forfeited any such claims. See Totten, 380 F.3d at 497.

No. 21-7011 **September Term, 2021**

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

Additional material from this filing is available in the Clerk's Office.