

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 08-5196

September Term 2008

1:08-cv-00650-UNA

Filed On: February 6, 2009

Michael S. Gorbey,

Appellant

v.

United States of America, et al.,

Appellees

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

BEFORE: Sentelle, Chief Judge, and Randolph and Rogers, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief and supplement thereto filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the district court's order filed May 22, 2008, be affirmed. The district court correctly dismissed appellant's complaint without prejudice for failure to state a claim, pursuant to 28 U.S.C. § 1983, because appellant's damages claims are barred by Heck v. Humphrey, 512 U.S. 477 (1994) (criminal defendant may not recover damages under § 1983 for harm caused by actions whose unlawfulness would render conviction or sentence invalid unless conviction or sentence has been invalidated in another proceeding). See Williams v. Hill, 64 F.3d 1339 (D.C. Cir. 1996) (applying Heck to actions against federal officials). Notably, the district court's dismissal was without prejudice to refiling should appellant ever meet the requirements of Heck.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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