

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13-5343

September Term, 2014

FILED ON: APRIL 21, 2015

RONNIE L. HARRIS,

APPELLANT

v.

ISAAC FULWOOD, JR., CHAIRMAN OF THE U.S. PAROLE COMMISSION, IN HIS INDIVIDUAL AND
OFFICIAL CAPACITIES, ET AL.,

APPELLEES

Appeal from the United States District Court
for the District of Columbia
(No. 1:12-cv-01215)

Before: GARLAND, *Chief Judge*, BROWN, *Circuit Judge*, and EDWARDS, *Senior Circuit
Judge*

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 briefs of the parties.¹ The Court has accorded the issues full consideration and has determined that they do not warrant a published opinion. *See* D.C. CIR. R. 36(d). For the reasons stated below, it is

ORDERED and ADJUDGED that the District Court's orders filed May 30, 2013 and October 30, 2013 dismissing Appellant's claims against the named defendants be affirmed on alternative grounds. *See United States v. Coughlin*, 610 F.3d 89, 108 (D.C. Cir. 2010) ("It is well settled that 'this court can affirm a correct decision even if on different grounds than those assigned in the decision on review.'") (quoting *Skinner v. Dep't of Justice*, 584 F.3d 1093, 1100 (D.C. Cir. 2009)).

Appellant seeks damages for, and vacatur of, the allegedly illegal revocation of his parole pursuant to 42 U.S.C. § 1983 and *Bivens v. Six Unknown Agents of Federal Bureau of Narcotics*,

¹ The court thanks court-appointed *amicus curiae*, Professor Erica Hashimoto, aided by law students Sarah Hill and Dov Preminger of the University of Georgia School of Law, for their assistance in presenting this case.

403 U.S. 388 (1971). A judgment in his favor would necessarily imply the invalidity of the parole revocation. See *Edwards v. Balisok*, 520 U.S. 641, 647–48 (1997). Because the revocation has not been invalidated in a prior proceeding, his section 1983 and *Bivens* claims are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). See *Wilkinson v. Dotson*, 544 U.S. 74, 81–82 (2005) (stating *Heck* applies “no matter the relief sought (damages or equitable relief) . . . if success in [the] action would necessarily demonstrate the invalidity of confinement or its duration”); see also *Skinner*, 584 F.3d at 1098–1100; *White v. Gittens*, 121 F.3d 803, 806–07 (1st Cir. 1997) (extending *Heck* doctrine to parole revocations); *Williams v. Hill*, 74 F.3d 1339, 1340–41 (D.C. Cir. 1996) (per curiam) (applying *Heck* to actions against federal officials under *Bivens*). Appellant’s section 1983 and *Bivens* claims are not cognizable unless and until he meets the requirements of *Heck*. 512 U.S. at 486–87. Therefore dismissal of the claims against the named defendants was proper. However, we remand to the District Court with instructions to modify the orders to state that dismissal is without prejudice to Appellant’s rights to pursue his claims in an appropriate proceeding. See *Anderson v. Reno*, Nos. 95-5055 & 95-5074, 1996 WL 248445 (D.C. Cir. Apr. 18, 1996) (dismissals pursuant to *Heck* are without prejudice). It is

FURTHER ORDERED and ADJUDGED that the District Court’s order filed October 30, 2013 dismissing without prejudice Appellant’s claim against unnamed officials for “illegally taking over 2000 pages of legal material with respect to [a] civil action” Appellant filed in Prince George’s County, Maryland be affirmed. Compl. ¶¶ 12, 18. The District Court properly denied Appellant’s motion to amend the complaint to name Major Joseph Pettiford and dismissed the claim, as Appellant did not allege Pettiford was involved in the purported confiscation of the documents. See *Hettinga v. United States*, 677 F.3d 471, 480 (D.C. Cir. 2012) (“A district court may deny a motion to amend a complaint as futile if the proposed claim would not survive a motion to dismiss.”).

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. R. 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Ken Meadows
Deputy Clerk