

August 9, 2012

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT
Elisabeth A. Shumaker
Clerk of Court

SCOTT ALAN COZENS,

Plaintiff–Appellant,

v.

WOODWARD COUNTY OKLAHOMA,
ex rel. THE WOODWARD COUNTY
COMMISSIONERS; WOODWARD
COUNTY DISTRICT COURT;
WOODWARD COUNTY SHERIFF’S
DEPARTMENT,

Defendants–Appellees.

No.12-6019

(D.C. No. 5:11-CV-00841-C)

(W.D. Oklahoma)

ORDER AND JUDGMENT*

Before **BRISCOE**, Chief Judge, **McKAY** and **HOLMES**, Circuit Judges.

After examining the briefs and the appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). This case is therefore ordered submitted without oral argument.

Plaintiff appeals from the district court’s dismissal of his 42 U.S.C. § 1983 complaint. In this complaint, Plaintiff alleged his constitutional rights were violated

* This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

when he received a “flat” state court sentence under which he received no good time credits, allegedly contrary to Oklahoma law. The district court concluded that Plaintiff could not state a valid claim for relief under *Heck v. Humphrey*, 512 U.S. 477 (1994), because judgment in his favor would necessarily imply the invalidity of his state court sentence.

On appeal, Plaintiff contends *Heck* is inapplicable because his § 1983 claim was based on unconstitutional procedures, similar to the § 1983 claim that was allowed in *Wolff v. McDonnell*, 418 U.S. 539, 554-55 (1974). However, *Heck* applies whenever “a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence,” *Heck*, 512 U.S. at 487, regardless of whether the claim is labeled as procedural or substantive. *See Edwards v. Balisok*, 520 U.S. 641, 645-46 (1997). The claim in *Wolff* could proceed under § 1983 because it “did not call into question the lawfulness of the plaintiff’s continuing confinement,” *Heck*, 512 U.S. at 483 (emphasis omitted), and it is thus readily distinguishable from the instant case. In this case, success on Plaintiff’s § 1983 claim would necessarily imply the invalidity of his sentence, and therefore the district court correctly dismissed the complaint under *Heck*.

The district court’s judgment is **AFFIRMED**.

Entered for the Court

Monroe G. McKay
Circuit Judge