

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-8052

SHAUN AUTALEON POSTON,

Plaintiff - Appellant,

versus

GRETCHEN C. F. SHAPPERT; JIM PENDERGRAPH; MARK
P. FOSTER, JR.,

Defendants - Appellees.

Appeal from the United States District Court for the Western
District of North Carolina, at Statesville. Graham C. Mullen,
Senior District Judge. (5:06-cv-00142)

Submitted: March 22, 2007

Decided: March 30, 2007

Before WIDENER and WILKINSON, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed by unpublished per curiam opinion.

Shaun Autaleon Poston, Appellant Pro Se. Paul Bradford Taylor,
OFFICE OF THE UNITED STATES ATTORNEY, Asheville, North Carolina,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Shaun Autaleon Poston appeals the district court's orders dismissing his 42 U.S.C. § 1983 (2000) complaint for failure to state a claim and denying his motion for reconsideration. We have reviewed the record and find no reversible error.

As found by the district court, Poston's complaint raises challenges to his underlying criminal conviction. Because Poston has made no showing that his conviction has been reversed, expunged, declared invalid by a state court, or called into question by a federal court's issuance of a writ of habeas corpus, we find that his claims are not cognizable under § 1983 or under 42 U.S.C. § 1985(3) (2000). See Heck v. Humphrey, 512 U.S. 477, 486-87 (1994); Stephenson v. Reno, 28 F.3d 26, 26-27 & n.1 (5th Cir. 1994 (per curiam) (applying holding in Heck to 42 U.S.C. § 1985 claim). To the extent that Poston's claims against the federal defendants could be construed as arising under Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), we find that these claims are also barred by the rationale set forth by the Supreme Court in Heck. See Stephenson, 28 F.3d at 27.

Accordingly, we affirm the district court's orders. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED