

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6501

HERSCHEL W. VICK EL, a/k/a Herschel W. Vick,

Plaintiff - Appellant,

v.

OFFICER EDWARD CARMEAN; CHIEF ARNOLD DOWNING,

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Baltimore.
George L. Russell, III, District Judge. (1:15-cv-03355-GLR)

Submitted: August 31, 2018

Decided: September 11, 2018

Before DIAZ and FLOYD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

Herschel W. Vick El, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Herschel W. Vick El appeals the district court's order granting Appellees' motion for summary judgment in his 42 U.S.C. § 1983 (2012) action. The district court held that Vick El's excessive force claim against Officer Carmean was barred by *Heck v. Humphrey*, 512 U.S. 477, 485-87 (1994), because a judgment in his favor would necessarily imply that his previous criminal conviction for resisting arrest was invalid.

On appeal, Appellees concede that, after the reversal of Vick El's state court conviction for resisting arrest, the *Heck* doctrine is inapplicable. Because Vick El's charge remains pending on the Maryland state court's stet docket, we find that abstention was warranted under *Younger v. Harris*, 401 U.S. 37, 43-45 (1971). See *Traverso v. Penn*, 874 F.2d 209, 212-13 (4th Cir. 1989). Accordingly, we vacate the summary judgment entered by the district court and remand for entry of an order staying further proceedings pending the ultimate termination of Maryland's state prosecution of Vick El for resisting arrest. This stay shall include any relevant state collateral review proceedings, whether by adjudication on the merits or by a decision of the state at any point to abandon or forego the prosecution. We grant Vick El leave to proceed in forma pauperis and deny Appellees' motion to strike Vick El's informal brief. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

VACATED AND REMANDED