

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 13-40619
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 28, 2014

Lyle W. Cayce
Clerk

MELVIN R. SCHIELD,

Plaintiff-Appellant

v.

JAMES BRAWNER; CHRISTOPHER HENKEN; CHRIS CARSON; STEVEN
GREENWELL; BRAD SOWELL; RICHARD HILBURN,

Defendants-Appellees

Appeals from the United States District Court
for the Southern District of Texas
USDC No. 3:13-CV-87

Before HIGGINBOTHAM, DENNIS, and GRAVES, Circuit Judges.

PER CURIAM:*

In 2013, Melvin R. Schield, formerly Texas prisoner # 1717742, was serving a 10-year sentence following his 2011 conviction of possession of at least 400 grams of tetrahydrocannabinol and possession of marijuana weighing between 50 and 2000 pounds. Schield filed the instant 42 U.S.C. § 1983 civil rights complaint alleging that the defendants violated his Fourth Amendment

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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rights in 2009 when they conducted an illegal search and seizure on his property, which resulted in the discovery of the aforementioned drugs and ultimately led to his 2011 conviction. He further alleged that the defendants committed perjury during the 2011 trial when they testified falsely regarding the circumstances of the search and seizure. Schield now appeals the district court's dismissal of his complaint as frivolous or for failure to state a claim.

Because the district court dismissed Schield's § 1983 complaint as frivolous or for failure to state a claim under § 1915A and § 1915(e)(2), this court's review is de novo under the same standard that is used to review a dismissal under Federal Rule of Civil Procedure 12(b)(6). *Black v. Warren*, 134 F.3d 732, 733-34 (5th Cir. 1998).

To the extent that Schield's claims for damages imply the invalidity of Schield's conviction, they are barred by the doctrine of *Heck v. Humphrey*, 512 U.S. 477 (1994). To the extent that Schield's claims are not barred by *Heck*, he has not demonstrated that the district court erred by dismissing the claims as time barred. *See Stanley v. Foster*, 464 F.3d 565, 568 (5th Cir. 2006). As Schield's appeal is without arguable merit, it is dismissed as frivolous. *See Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

APPEAL DISMISSED.