

United States Court of Appeals
For the Eighth Circuit

No. 18-3547

Michael Justin Parkins

Plaintiff - Appellant

v.

Detective Alison Nguyen; Detective Chad Pomietlo; Detective Roy Brooks, Jr.

Defendants - Appellees

Appeal from United States District Court
for the Western District of Arkansas - Fayetteville

Submitted: July 29, 2019

Filed: August 1, 2019

[Unpublished]

Before COLLOTON, WOLLMAN, and ERICKSON, Circuit Judges.

PER CURIAM.

In this 42 U.S.C. § 1983 action, Arkansas inmate Michael Justin Parkins appeals the district court's¹ adverse grant of summary judgment. Viewing the

¹The Honorable Timothy L. Brooks, United States District Judge for the Western District of Arkansas.

evidence and reasonable inferences in Parkins's favor, we agree that defendants were entitled to summary judgment. See Faulkner v. Douglas Cty., Neb., 906 F.3d 728, 732 (8th Cir. 2018) (de novo review). Specifically, we agree that Parkins's claims for damages arising from his arrest and prosecution were barred by Heck v. Humphrey, 512 U.S. 477 (1994); and we find that he could not seek his release from confinement in this section 1983 action, see Adams v. Agniel, 405 F.3d 643, 644-45 (8th Cir. 2005) (per curiam) (attack on validity of confinement is properly pursued only through habeas action after exhaustion of state remedies). Further, we agree with the district court that Parkins's Fourth Amendment excessive-force claim failed under the relevant factors. See Zubrad v. Hock, 907 F.3d 569, 577 (8th Cir. 2018) (listing relevant factors). Accordingly, the judgment is affirmed, but we amend the judgment on the Heck-barred claims to be without prejudice, see Schafer v. Moore, 46 F.3d 43, 45 (8th Cir. 1995) (per curiam) (dismissal of Heck-barred claim should be without prejudice so plaintiff can refile complaint if he succeeds in obtaining relief by way of appropriate state or federal remedies). We deny Parkins's motion for a stay.
