NOT FOR PUBLICATION

FILED

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BROQUE ANTHONY ANDERSON, Plaintiff-Appellant, v. R. OREWYLER, G6210, individual capacity and official capacity; MATA, Rancho Cucamonga Sheriff, individual and official capacity; R. WRIGHT, No. W2800, individual and official capacity; ESMERALDA CONTRERAS, Rancho Cucamonga, individual and official capacity, Defendants-Appellees.	No. 22-56125 D.C. No. 5:21-cv-02168-JAK-KES MEMORANDUM[*]

Appeal from the United States District Court
for the Central District of California
John A. Kronstadt, District Judge, Presiding

Submitted October 10, 2023[**]

Before: S.R. THOMAS, McKEOWN, and HURWITZ, Circuit Judges.

Broque Anthony Anderson appeals pro se from the district court's judgment

[*] This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

[**] The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

dismissing his 42 U.S.C. § 1983 action alleging unlawful search and seizure. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Wilhelm v. Rotman*, 680 F.3d 1113, 1118 (9th Cir. 2012) (dismissal under 28 U.S.C. § 1915A); *Whitaker v. Garcetti*, 486 F.3d 572, 579 (9th Cir. 2007) (dismissal under *Heck v. Humphrey*, 512 U.S. 477 (1994)). We affirm.

To the extent that Anderson challenges the merits of the district court's dismissal, the district court properly dismissed Anderson's action because Anderson's official capacity claims failed to allege facts sufficient to show that defendants acted under an unconstitutional policy or custom; Anderson's search and seizure claims resulting in a conviction were *Heck*-barred; and Anderson otherwise failed to allege facts sufficient to state a plausible claim. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (explaining that, to avoid dismissal, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face" (citation and internal quotation marks omitted)); *Heck*, 512 U.S. at 487 (holding that if "a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence . . . the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated"); *Castro v. County of Los Angeles*, 833 F.3d 1060, 1073 (9th Cir. 2016) (en banc) ("In order to establish municipal liability, a plaintiff must show that a 'policy or custom' led to the plaintiff's injury." (citation

omitted)).

The district court did not abuse its discretion in declining to stay Anderson's action to allow him to challenge his state court conviction. *See Wallace v. Kato*, 549 U.S. 384, 393-94 (2007); *Edwards v. Balisok*, 520 U.S. 641, 649 (1997); *Filtrol Corp. v. Kelleher*, 467 F.2d 242, 245 (9th Cir. 1972) (setting forth standard of review).

AFFIRMED.