

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

ROBERT SCOTT WILCOX
ADC #163497

PLAINTIFF

v. No. 5:19-cv-288-DPM

DREW COUNTY SHERIFF'S
DEPARTMENT, and DREW COUNTY
CIRCUIT COURT

DEFENDANTS

ORDER

1. The petition to revoke Wilcox's suspended sentence was dismissed for lack of evidence; and a newly filed petition in that case omits the allegations at the heart of this case. His motion to reopen, *No 4*, is therefore granted.

2. Wilcox says he was unlawfully arrested for drugs that weren't his. He says his parole was revoked based on the unlawful arrest and that the Defendants also tried to revoke his suspended sentence. He sued the Drew County Sheriff's Department and Drew County Circuit Court seeking damages. *No 2*.

Wilcox's claims are *Heck*-barred. *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994); *Newmy v. Johnson*, 758 F.3d 1008 (8th Cir. 2014). A judgment in Wilcox's favor would necessarily call into question his parole revocation; and Wilcox hasn't alleged that the revocation has

been reversed, expunged, or invalidated. Further, neither the Drew County Sheriff's Office nor the Drew County Circuit Court is an entity subject to suit under 42 U.S.C. § 1983. *Ketchum v. City of West Memphis*, 974 F.2d 81, 82 (8th Cir. 1992); *Midfelt v. Circuit Court of Jackson County, Missouri*, 827 F.2d 343, 345 (8th Cir. 1987). Wilcox's complaint therefore fails to state a claim.

3. Wilcox's complaint will be dismissed without prejudice. This dismissal counts as a "strike" under 28 U.S.C. § 1915(g). An *in forma pauperis* appeal from this Order and accompanying Judgment would not be taken in good faith. 28 U.S.C. § 1915(a)(3).

So Ordered.



D.P. Marshall Jr.
United States District Judge

8 October 2019