

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

8
9 JOHNATHAN HILL,

10 Plaintiff,

11 v.

12 MARMOLEJO, et al.,

13 Defendants.
14

Case No. 1:16-cv-00218-SKO (PC)

**ORDER DISMISSING CASE SINCE BARRED BY
HECK V. HUMPHRY, 512 U.S. 477 (1994) and
EDWARDS v. BALISOK, 520 U.S. 641 (1997)**

15
16 Plaintiff, Johnathan Hill, is a state prisoner proceeding *pro se* and *in forma pauperis* in
17 this civil rights action pursuant to 42 U.S.C. § 1983. In the Complaint, Plaintiff alleges that he
18 was wrongly charged and found guilty of a Serious Rules Violation Report (“SRVR”) for battery
19 on a police officer. (Doc. 1.) Plaintiff contends that he is innocent of this charge and was not
20 given a proper hearing on the charge, which amounted to a violation of his right to due process.
21 (*Id.*) As a result of having been found guilty, Plaintiff lost 150 days of good time credit. (*Id.*, at
22 p. 10.)

23 Since it appeared that this action is barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), an
24 order issued giving Plaintiff twenty-one (21) days to show cause why this action should not be
25 dismissed without prejudice. It is now more than two months since the order to show cause
26 issued and Plaintiff has not responded to it in any way.

27 As stated in the order to show cause, when a prisoner challenges the legality or duration of
28 his custody, or raises a constitutional challenge which could entitle him to an earlier release, his

1 sole federal remedy is a writ of habeas corpus. *Preiser v. Rodriguez*, 411 U.S. 475 (1973); *Young*
2 *v. Kenny*, 907 F.2d 874 (9th Cir. 1990), *cert. denied* 11 S.Ct. 1090 (1991). Moreover, when
3 seeking damages for an allegedly unconstitutional conviction or imprisonment, “a § 1983 plaintiff
4 must prove that the conviction or sentence has been reversed on direct appeal, expunged by
5 executive order, declared invalid by a state tribunal authorized to make such determination, or
6 called into question by a federal court's issuance of a writ of habeas corpus, 28 U.S.C. § 2254.”
7 *Heck v. Humphrey*, 512 U.S. 477, 487-88 (1994). “A claim for damages bearing that relationship
8 to a conviction or sentence that has not been so invalidated is not cognizable under § 1983.” *Id.*
9 at 488. This “favorable termination” requirement has been extended to actions under § 1983 that,
10 if successful, would imply the invalidity of prison administrative decisions which result in a
11 forfeiture of good-time credits. *Edwards v. Balisok*, 520 U.S. 641, 643-647 (1997).

12 The Complaint does not contain any allegations to show that Plaintiff's finding of guilt
13 under the SRVR has been reversed, expunged, declared invalid, or called into question by a writ
14 of habeas corpus. Accordingly, pursuant to *Heck v. Humphrey*, 512 U.S. 477 (1994) and
15 *Edwards v. Balisok*, 520 U.S. 641, 643-647 (1997), Plaintiff is barred from bringing this action
16 under 28 U.S.C. § 1983 and this action is **HEREBY DISMISSED, without prejudice.**

17
18 IT IS SO ORDERED.

19 Dated: April 6, 2017

/s/ Sheila K. Oberto
20 UNITED STATES MAGISTRATE JUDGE
21
22
23
24
25
26
27
28