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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LARRY SCHINKEL,
Plaintiff,
v.
SULLIVAN,
Defendant.

Case No. 1:16-cv-00818-DAD-JLT (PC)
ORDER TO SHOW CAUSE WHY THIS ACTION SHOULD NOT BE DISMISSED AS BARRED BY *HECK V. HUMPHRY*, 512 U.S. 477 (1994) and *EDWARDS v. BALISOK*, 520 U.S. 641 (1997).
(Doc. 1)
30-DAY DEADLINE

Plaintiff alleges that Supervising Cook Sullivan refused to unlock the bathroom for him during his shift which forced him to defecate in a mop bucket. Plaintiff was found guilty on a resulting Rules Violation Report (“RVR”) which caused him to lose his prison job and 30 days of good time work credits. (Doc. 1.)

When a prisoner challenges the legality or duration of his custody, or raises a constitutional challenge which could entitle him to an earlier release, his sole federal remedy is a writ of habeas corpus. *Preiser v. Rodriguez*, 411 U.S. 475 (1973); *Young v. Kenny*, 907 F.2d 874 (9th Cir. 1990), *cert. denied* 11 S.Ct. 1090 (1991). Moreover, when seeking damages for an allegedly unconstitutional conviction or imprisonment, "a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus, 28 U.S.C. § 2254." *Heck v. Humphrey*, 512

1 U.S. 477, 487-88 (1994). "A claim for damages bearing that relationship to a conviction or
2 sentence that has not been so invalidated is not cognizable under § 1983." *Id.* at 488. This
3 "favorable termination" requirement has been extended to actions under § 1983 that, if successful,
4 would imply the invalidity of prison administrative decisions which result in a forfeiture of good-
5 time credits. *Edwards v. Balisok*, 520 U.S. 641, 643–647 (1997).

6 The complaint does not contain any allegations to show that Plaintiff's finding of guilt
7 under the RVR has been reversed, expunged, declared invalid, or called into question by a writ of
8 habeas corpus nor does it demonstrate that the lost credit for custodial time has been restored.

9 Accordingly, the Court **ORDERS** that within **30 days** from the date of service of this
10 order, Plaintiff shall show cause in writing why this action should not be dismissed as barred by
11 *Heck v. Humphrey*, 512 U.S. 477 (1994) and *Edwards v. Balisok*, 520 U.S. 641, 643–647 (1997).

12 **Failure to respond to this order will result in dismissal of this action, without prejudice.**

13
14 IT IS SO ORDERED.

15 Dated: **November 16, 2016**

/s/ Jennifer L. Thurston
16 UNITED STATES MAGISTRATE JUDGE