

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDDIE LEE CHESTANG,
Plaintiff,
v.
CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,
Defendants.

No. 2:14-cv-2584 GEB CKD P

FINDINGS AND RECOMMENDATIONS

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. Plaintiff filed this action in the Solano County Superior Court. On November 4, 2014, this action was removed to federal court. See 28 U.S.C. §§ 1331, 1441(b). (ECF No. 1.)

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

Plaintiff challenges his 2012 disciplinary conviction for possession of an inmate-manufactured stabbing weapon, for which he was assessed a 360-day loss of behavioral credits. (See ECF No. 1-1 at 22.) He asserts that the conviction was obtained in violation of his right to

1 federal due process.

2 Plaintiff's challenge to the disciplinary conviction is barred by Heck v. Humphrey, 512
3 U.S. 477 (1994). In Heck, the Supreme Court held that to recover damages for "harm caused by
4 actions whose unlawfulness would render a conviction or sentence invalid," a § 1983 plaintiff
5 must prove that the conviction or sentence was reversed, expunged, or otherwise invalidated. Id.
6 at 486–487. The Heck bar preserves the rule that federal challenges, which, if successful, would
7 necessarily imply the invalidity of incarceration or its duration, must be brought by way of
8 petition for writ of habeas corpus, after exhausting appropriate avenues of relief. Muhammad v.
9 Close, 540 U.S. 749, 750–751 (2004). Accordingly, "a state prisoner's [section] 1983 action is
10 barred (absent prior invalidation) — no matter the relief sought (damages or equitable relief), no
11 matter the target of the prisoner's suit (state conduct leading to conviction or internal prison
12 proceedings) — if success in that action would necessarily demonstrate the invalidity of
13 confinement or its duration." Wilkinson v. Dotson, 544 U.S. 74, 81–82 (2005); see also Edwards
14 v. Balisok, 520 U.S. 641, 644–646 (1997) (holding that claims alleging procedural defects and
15 bias by a hearing officer at disciplinary hearing were not cognizable under Heck, because they
16 implied the invalidity of a credit forfeiture imposed at the hearing).

17 Consequently, plaintiff's §1983 action cannot proceed unless and until his disciplinary
18 conviction is invalidated.¹

19 Accordingly, IT IS HEREBY RECOMMENDED THAT the complaint be dismissed
20 without prejudice and this case closed.

21 ////

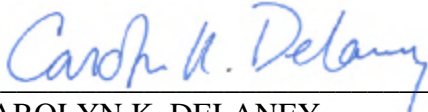
22 _____
23 ¹ Plaintiff is advised that prison inmates may challenge disciplinary convictions resulting in loss
24 of credits in a petition for writ of habeas corpus pursuant to 42 U.S.C. § 2254. An inmate's rights
arising under federal law concerning disciplinary proceedings which result in the loss of good
conduct sentence credit are, generally speaking, limited to the following:

25 1) Advance written notice of the charges;
26 2) An opportunity, when consistent with institutional safety and correctional goals, to call
witnesses and present documentary evidence in his or her defense;
27 3) A written statement by the fact-finder of the evidence relied on and the reasons for the
disciplinary action; and
28 4) That the findings of the prison disciplinary board be supported by some evidence in the
record. Superintendent v. Hill, 472 U.S. 445, 454 (1985).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, plaintiff may file written objections with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: January 8, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

2 /ches258414.new