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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RALPH EARL JONES,
Plaintiff,
v.
PATRICK REARDON, et al.,
Defendants.

No. 2:17-cv-0469 AC P

ORDER

Plaintiff is a state prisoner incarcerated at the California Medical Facility under the authority of the California Department of Corrections and Rehabilitation. Plaintiff proceeds pro se with a complaint filed pursuant to 42 U.S.C. § 1983. Plaintiff has consented to the jurisdiction of the undersigned Magistrate Judge for all purposes pursuant to 28 U.S.C. § 636(c) and E.D. Cal. L. R. (“Local Rule”) 305(a). See ECF No. 4.

As set forth in his three-page complaint, plaintiff seeks damages against the California Board of Parole Hearings, and two of its members, Patrick Reardon and Rhonda Skipper-Dotta. Plaintiff also seeks an order of this court directing the Board to remove from plaintiff’s central file “all information regarding the conviction of aggravated robbery, Texas, 1984,” for which plaintiff asserts he was exonerated in 1993; and to “correct records that (2 counts) assault to murder, Texas, 1972, as non-violent or serious offenses.” ECF No. 1 at 3.

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1 Plaintiff avers that on January 31, 2017, defendant Reardon, acting for the Board, denied
2 plaintiff parole “based, in part, on criminal history of violence,” including all three counts. On
3 February 3, 2017, plaintiff sent documents to the Board showing that he was exonerated of the
4 1984 aggravated robbery and released on April 23, 1993. On February 14, 2017, defendant
5 Skipper-Dotta, acting for the Board, “reconsidered parole suitability and denied parole based, in
6 part, on (2 counts) assault to murder and possession of control[led] substance and stating she
7 excluded the aggravated robbery charge.” Id.

8 Plaintiff’s complaint fails to state a claim over which this court has jurisdiction. The
9 California Board of Parole Hearings, a state agency, is immune from damages suits under the
10 Eleventh Amendment. See Atascadero State Hospital v. Scanlon, 473 U.S. 234, 237-38 (1985)
11 (Eleventh Amendment bars suits against states in federal court); Wolfe v. Strankman, 392 F.3d
12 358, 364 (9th Cir. 2004) (as applied to state agencies). Moreover, Board members, who exercise
13 quasi-judicial responsibilities in rendering a decision to grant, deny or revoke parole, are
14 absolutely immune from damages liability. See Sellars v. Proconier, 641 F.2d 1295, 1302-03
15 (9th Cir.), cert. denied, 454 U.S. 1102 (1981); cf. Swift v California, 384 F. 3d 1184, 1186, 1191
16 (9th Cir. 2004) (parole officers not entitled to absolute immunity for conduct independent of
17 Board’s decision-making authority, e.g., in performing investigatory or law enforcement
18 functions).

19 In addition to these specific barriers to the instant suit, all claims for damages based on a
20 prisoner’s underlying conviction or sentence are bound by the “favorable termination rule” set
21 forth by the Supreme Court in Preiser v. Rodriguez, 411 U.S. 475 (1973) and Heck v. Humphrey,
22 512 U.S. 477 (1994). As explained by the Court in Heck, “in order to recover damages for
23 allegedly unconstitutional conviction or imprisonment . . . a § 1983 plaintiff must prove that the
24 conviction or sentence has been reversed on direct appeal, expunged by executive order, declared
25 invalid by a state tribunal authorized to make such determination, or called into question by a
26 federal court’s issuance of a writ of habeas corpus[.]” 512 U.S. at 481, 486-87. In the instant
27 case, according to plaintiff, Board member Skipper-Dotta reconsidered plaintiff’s parole
28 suitability excluding the challenged aggravated robbery count, and still denied parole. Plaintiff

1 offers no grounds on which to conclude that the remaining two counts on which Skipper-Dotta
2 relied (assault to commit murder and possession of a controlled substance) have been invalidated.
3 Absent a formal decision that the denial of plaintiff's parole improperly rested on an invalid
4 conviction or sentence, plaintiff may not pursue a damages claim.

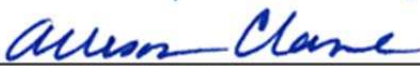
5 Finally, habeas relief is available only if success on the merits of petitioner's claim would
6 necessarily impact the fact or duration of his confinement. See Nettles v. Grounds, 830 F.3d.
7 922, 934-35 (9th Cir. 2016) (en banc). Absent such impact, federal courts are without authority
8 to review the substance of a petitioner's parole denial. See Swarthout v. Cooke, 562 U.S. 216,
9 219 (2011). The Supreme Court has held that federal habeas relief is not available for errors of
10 state law, and that the Due Process Clause does not require correct application of California's
11 "some evidence" standard for denying parole. Federal courts may not intervene in state parole
12 decisions as long as minimum procedural protections were provided to the petitioner. Id. at 219–
13 20.

14 Pursuant to these authorities, the undersigned finds that the instant complaint fails to state
15 a cognizable claim, and that amendment of the complaint would be futile. The court will deny
16 plaintiff's request to proceed in forma pauperis without imposition of a fee.

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. Plaintiff's complaint, ECF No. 1, is dismissed without leave to amend.
- 19 2. Plaintiff's motion to proceed in forma pauperis, ECF No. 2, is denied as moot.
- 20 3. The Clerk of Court is directed to close this case.

21 DATED: July 10, 2017

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23 ALLISON CLAIRE
24 UNITED STATES MAGISTRATE JUDGE
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