

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

\*E-Filed 11/30/10\*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

VICTOR SANDOVAL,  
Plaintiff,

No. C 09-5427 RS (PR)

**ORDER OF DISMISSAL**

v.

A. HEDGPETH, et al.,  
Defendants.

United States District Court  
For the Northern District of California

---

**INTRODUCTION**

This is a federal civil rights action filed pursuant to 42 U.S.C. § 1983 by a *pro se* state prisoner. Defendants move to dismiss the action on grounds that it is barred by a prior invalidation rule. For the reasons discussed herein, defendants' motion is GRANTED, and the action DISMISSED.

**BACKGROUND**

The following facts are undisputed, unless otherwise noted. A July 2008 search of plaintiff's cell at Salinas Valley State Prison yielded a jar of white powder, which, according to defendants, was methamphetamine, but which plaintiff alleges was baking soda. In August 2008, a prison disciplinary board found plaintiff guilty of forming a conspiracy to

1 introduce a controlled substance into the prison for purposes of distribution. According to  
2 defendants, pursuant to the guilty finding, plaintiff lost 180 days of good time credits, and  
3 some privileges. Plaintiff alleges that in addition to the loss of good time credits, he received  
4 15 months of detention in the secured housing unit, and a loss of visiting privileges. In  
5 response to the verdict and sentence, plaintiff pursued administrative remedies, and filed  
6 state court actions, none of which resulted in the relief plaintiff sought. This federal civil  
7 rights action followed. Here, plaintiff alleges that defendants violated his due process rights.

### 8 DISCUSSION

9 In order to recover on claims for monetary and equitable relief for an allegedly  
10 unconstitutional conviction or imprisonment, or for other harm caused by actions whose  
11 unlawfulness would render a conviction or sentence invalid, a 42 U.S.C. § 1983 plaintiff  
12 must prove that the conviction or sentence has been reversed on direct appeal, expunged by  
13 executive order, declared invalid by a state tribunal authorized to make such determination,  
14 or called into question by a federal court's issuance of a writ of habeas corpus. *Heck v.*  
15 *Humphrey*, 512 U.S. 477, 486–487 (1994). *Heck's* bar is broad. “[A] state prisoner’s § 1983  
16 action is barred (absent prior invalidation) — no matter the relief sought (damages or  
17 equitable relief), no matter the target of the prisoner’s suit (state conduct leading to  
18 conviction or internal prison proceedings) — if success in that action would necessarily  
19 demonstrate the invalidity of confinement or its duration.” *Wilkinson v. Dotson*, 544 U.S. 74,  
20 81–82 (2005).

21 Applying this law to the instant action, plaintiff’s complaint is barred by *Heck*. First,  
22 it is undisputed that if the requested relief were granted — a court order invalidating the  
23 disciplinary verdict that deprived plaintiff of good time credits — it would necessarily  
24 demonstrate the invalidity of the duration of his confinement. Second, plaintiff has not  
25 shown that his conviction has been reversed on direct appeal, expunged by executive order,  
26 declared invalid by a state tribunal authorized to make such determination, or called into  
27 question by a federal court’s issuance of a writ of habeas corpus. The action, then, is the sort  
28

1 of action *Heck* bars. Accordingly, defendants' motion to dismiss (Docket No. 19) is  
2 GRANTED, and the action DISMISSED. The Clerk shall enter judgment in favor of  
3 defendants, and close the file. This order terminates Docket No. 19.

4 **IT IS SO ORDERED.**

5 DATED: November 30, 2010

  
RICHARD SEEBORG  
United States District Judge

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