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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6

7 RODEO RONALD VAN BLADEL,
8 Plaintiff,
9

No. C 15-4407 MEJ (PR)

ORDER OF DISMISSAL

10 v.

11 SONOMA COUNTY DISTRICT
12 ATTORNEY, et al.,
13 Defendants.
14

INTRODUCTION

15 Plaintiff, a state prisoner incarcerated at San Quentin State Prison (“SQSP”), has filed
16 a *pro se* civil rights action pursuant to 42 U.S.C. § 1983, seeking damages and injunctive
17 relief for alleged constitutional violations that resulted in his criminal conviction in Sonoma
18 County Superior Court. Plaintiff has filed a motion to proceed in forma pauperis, which is
19 granted in a separate order.

20 **DISCUSSION**

21 **I. Standard of Review**

22 A federal court must conduct a preliminary screening in any case in which a prisoner
23 seeks redress from a governmental entity or officer or employee of a governmental entity. 28
24 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims and dismiss
25 any claims that are frivolous, malicious, fail to state a claim upon which relief may be
26 granted or seek monetary relief from a defendant who is immune from such relief. *Id.*
27 § 1915A(b)(1), (2). *Pro se* pleadings must be liberally construed. Balistreri v. Pacifica
28 Police Dep’t., 901 F.2d 696, 699 (9th Cir. 1988).

1 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential
2 elements: (1) that a right secured by the Constitution or laws of the United States was
3 violated, and (2) that the alleged violation was committed by a person acting under the color
4 of state law. West v. Atkins, 487 U.S. 42, 48 (1988).

5 **II. Plaintiff's Claims**

6 Plaintiff alleges that defendant Office of the Sonoma County District Attorney
7 violated his constitutional rights by engaging in various forms of prosecutorial misconduct
8 relating to his state court criminal proceedings, including failing to disclose exculpatory
9 evidence and failing to disclose promises made to prosecution witnesses in return for their
10 testimony. Plaintiff alleges that defendant Sonoma County Sheriff's Department engaged in
11 various forms of improper investigation including failure to preserve evidence. Plaintiff
12 alleges that defendant Sonoma County Superior Court Judge Gayle Guynup engaged in
13 judicial misconduct by failing to recuse herself from plaintiff's case. Finally, plaintiff alleges
14 that his court-appointed defense counsel rendered ineffective assistance throughout his
15 criminal proceedings.

16 Plaintiff's claims are barred by Heck v. Humphrey, 512 U.S. 477, 486-87 (1994). The
17 United States Supreme Court has held that to recover damages in a suit under § 1983 for an
18 allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions
19 whose unlawfulness would render a conviction or sentence invalid, a plaintiff must prove that
20 the conviction or sentence has been reversed on direct appeal, expunged by executive order,
21 declared invalid by a state tribunal authorized to make such determination, or called into
22 question by a federal court's issuance of a writ of habeas corpus. Id. A claim for damages
23 arising from a conviction or sentence that has not been so invalidated is not cognizable under
24 § 1983. Id.

25 If plaintiff's claims that defendants violated his constitutional rights during state
26 criminal proceedings are proven true, this would imply the invalidity of his conviction.
27 Because plaintiff is presently an inmate at SQSP, it is clear the conviction has yet to be
28 invalidated. Until then, the claims are barred by Heck.

1 A petition for a writ of habeas corpus is the exclusive method by which a person may
2 challenge in this court the fact or duration of his confinement. See Preiser v. Rodriguez, 411
3 U.S. 475, 500 (1973). Before he may file a federal petition, however, plaintiff must exhaust
4 state judicial remedies, either on direct appeal or through collateral proceedings, by
5 presenting the highest state court available with a fair opportunity to rule on the merits of
6 each and every issue he seeks to raise in federal court. See 28 U.S.C. § 2254(b)(1)(A),(c);
7 Duckworth v. Serrano, 454 U.S. 1, 3 (1981).

8 **CONCLUSION**

9 For the foregoing reasons, this action is DISMISSED. This dismissal is without
10 prejudice to plaintiff filing a new action if his criminal conviction is set aside. The Clerk
11 shall enter judgment and close the file.

12 IT IS SO ORDERED.

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14 DATED: January 5, 2016

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17 Maria-Elena James
18 United States Magistrate Judge
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