

1
2
3
4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6

7 RAHSAAN COLEMAN,

8 Plaintiff,

9 v.

10 DIANA BECTON BROWN, et al.,

11 Defendants.

Case No. [16-cv-06150-EMC](#)

ORDER OF DISMISSAL

12
13 **I. BACKGROUND**

14 Rahsaan Coleman, an inmate at the California State Prison - Solano, filed this *pro se* civil
15 rights action under 42 U.S.C. § 1983. For the reasons discussed below, the action will be
16 dismissed.

17 **II. BACKGROUND**

18 Mr. Coleman believes that his conviction and criminal trial were invalid because two state
19 court judges who presided over his criminal case did not timely file their oaths of office. He has
20 unsuccessfully pursued this theory in numerous court actions and in complaints to the California
21 Commission on Judicial Performance. *See* Docket No. 1 at 23-24 (listing nine state court actions);
22 *see also* Docket No. 24 at 2 in *Coleman v. McGrath*, No. 04-cv-4069 PJH (dismissing the oath-of-
23 office claim from habeas action because it was, at most, a state law error claim). In 2012, Mr.
24 Coleman filed a civil rights action under 42 U.S.C. § 1983 asserting claims based on his theory.
25 This Court dismissed that action, concluding that the action was barred by the rule from *Heck v.*
26 *Humphrey*, 512 U.S. 477 (1994). *See* Docket No. 5 in *Coleman v. Brown*, No. 12-cv-6291 EMC.
27 He now returns with the same claims and with an additional fact that he contends allows him to
28 avoid the *Heck* bar.

1 In the present action, Mr. Coleman once again claims that his conviction and trial were
2 invalid because two state court judges did not timely file their oaths of office. Mr. Coleman
3 alleges in his complaint that Contra Costa County Municipal Court Judge Becton Brown did not
4 file her oath of office until December 26, 1995, which allegedly was beyond the state law
5 deadline. *See id.* at 15-16. Mr. Coleman alleges that former Contra Costa County Superior Court
6 Judge Sepulveda did not file her oaths of office until October 31, 1991 and November 26, 1999,
7 which allegedly were beyond the state law deadlines. *Id.* at 17-18. The complaint suggests these
8 two judges presided over some or all of Mr. Coleman’s trial or criminal proceedings. *See id.* at
9 12.¹ He alleges that their “practices, acts and/or policies . . . have caused plaintiff to be wrongly or
10 illegally tried, convicted and sentenced on the basis of excess of jurisdiction.” Docket No. 1 at 7.

11 Mr. Coleman has a new fact that he contends will enable him to avoid the *Heck* bar that
12 prompted the dismissal of Case No. 12-cv-6291 EMC. Specifically, he contends that he “finally
13 obtain[ed] relief from a wrongful sentence” when he was resentenced pursuant to California Penal
14 Code § 1170.12 in 2016. *See* Docket No. 15 at 2-3 in *Coleman v. Brown*, Case No. 12-cv-6291
15 EMC. He further alleges that the minutes and abstracts from the 2016 sentencing proceedings
16 “illuminate that [he] challenged and successfully appeal[ed] his wrongful sentence, and or
17 imprisonment.” *Id.* at 3.²

18 Mr. Coleman’s resentencing in 2016 was based on a new interpretation of California’s
19 Three Strikes law by the California Supreme Court and not because any of his convictions had
20 been overturned. In *People v. Vargas*, 59 Cal. 4th 635 (Cal. 2014), the California Supreme Court
21 announced that a trial court must dismiss one of a defendant’s two prior strike convictions if those
22

23
24 _____
25 ¹ To be clear: the oaths of office had been filed (although allegedly untimely) before Mr.
26 Coleman’s case arose. Mr. Coleman was charged with committing a murder on July 31, 1997.
27 His trial was held in 1998, at which he was convicted of voluntary manslaughter and being a felon
28 in possession of a firearm. Docket No. 1 at 8-9.

² The present action came to exist because the Court rejected Mr. Coleman’s efforts to file an
amended complaint in Case No. 12-cv-6291 EMC four years after the case was closed and
directed him to pursue his claim in a new action. *See* Docket No. 17 at 1-2 in *Coleman v. Brown*,
Case No. 12-cv-6291 EMC.

1 two convictions were based on the same single act.³ Relying on the newly-announced rule in
2 *Vargas*, Mr. Coleman filed a habeas petition in the California Court of Appeal, requesting
3 resentencing. *See In re Rahsaan Coleman*, Cal. Ct. App. Case No. A147007 (docket sheet
4 available with text of orders at <http://appellatecases.courtinfo.ca.gov/search/case>). The California
5 Court of Appeal requested input from the respondent, and the respondent agreed that resentencing
6 was appropriate. The appellate court therefore ordered the matter remanded to the trial court for
7 resentencing in light of *Vargas*. *Id.* In the trial court, Mr. Coleman was resentenced to a
8 determinate term of 22 years, 4 months. *See* Docket No. 15 at 24 in *Coleman v. Brown*, No. 12-
9 cv-6291 EMC (May 20, 2016 amended abstract). This was a substantial reduction from the 59-
10 years-to-life sentence he had initially received upon conviction. It thus appears that he was
11 sentenced as a second-strike defendant rather than as a third-strike defendant under California’s
12 Three Strikes law.

13 **III. DISCUSSION**

14 A federal court must engage in a preliminary screening of any case in which a prisoner
15 seeks redress from a governmental entity or officer or employee of a governmental entity. *See* 28
16 U.S.C. § 1915A(a). In its review the court must identify any cognizable claims, and dismiss any
17 claims which are frivolous, malicious, fail to state a claim upon which relief may be granted, or
18 seek monetary relief from a defendant who is immune from such relief. *See id.* at § 1915A(b).
19 *Pro se* pleadings must be liberally construed. *See Balistreri v. Pacifica Police Dep't*, 901 F.2d
20 696, 699 (9th Cir. 1990).

21 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements: (1) that a
22 right secured by the Constitution or laws of the United States was violated and (2) that the
23 violation was committed by a person acting under the color of state law. *See West v. Atkins*, 487
24

25 ³ In *Vargas*, the defendant received a third-strike sentence because she had two prior convictions
26 from 1999, i.e., a conviction for carjacking and another conviction for robbery even though the
27 “carjacking and robbery convictions were based on the same act of taking the victim’s car by
28 force.” *Id.* at 639-40. *Vargas* held that, under those particular circumstances -- where the two
prior convictions were based on a single act -- “the trial court was required to dismiss one of
defendant’s two prior strike convictions.” *Id.* at 645. As a result, the *Vargas* defendant was
entitled to receive second-strike sentences (rather than third strike sentences) for her current
offenses.

1 U.S. 42, 48 (1988).

2 Generally, a plaintiff may not obtain damages in a § 1983 action for alleged constitutional
3 violations in connection with his criminal trial as long as the conviction remains in place. *Heck v.*
4 *Humphrey*, 512 U.S. 477 (1994), held that a plaintiff cannot bring a civil rights action for damages
5 for a wrongful conviction or imprisonment, or for other harm caused by actions whose
6 unlawfulness would render a conviction or sentence invalid, unless that conviction or sentence
7 already has been determined to be wrongful. *See id.* at 486-87. A conviction or sentence may be
8 determined to be wrongful by, for example, being reversed on appeal or being set aside when a
9 state or federal court issues a writ of habeas corpus. *See id.* The *Heck* rule also prevents a person
10 from bringing an action that -- even if it does not directly challenge the conviction or other
11 decision -- would imply that the conviction or other decision was invalid. The practical
12 importance of this rule is that a plaintiff cannot attack his conviction *in* a civil rights action for
13 damages; the decision must have been successfully attacked *before* the civil rights action for
14 damages is filed. The *Heck* rule was first announced with respect to an action for damages, but the
15 Supreme Court has since applied the rule to an action that sought declaratory relief as well as
16 damages. *See Edwards v. Balisok*, 520 U.S. 641, 648 (1997). If success in the § 1983 action
17 would “necessarily demonstrate the invalidity of confinement or its duration,” the § 1983 action is
18 barred no matter the relief sought (i.e., damages or equitable relief) as long as the conviction has
19 not been set aside. *See Wilkinson v. Dotson*, 544 U.S. 74, 82 (2005).

20 Mr. Coleman alleges that Defendants violated his rights by causing his conviction in an
21 allegedly unlawful trial – unlawful because Defendants’ oaths of office were defective. Although
22 he alleges at one point that his complaint “is not challenging the criminal conviction or sentence,”
23 he alleges in the next breath that he is “challenging the established state procedure itself which
24 destroyed his rights to a fair trial.” Docket No. 1 at 19. In addition to damages and declaratory
25 relief, he requests that the Court issue an order vacating his sentence and conviction, and order a
26 new trial for him. *Id.* at 22. Mr. Coleman’s claims are squarely within the *Heck* rule because
27 success on them would call into question the validity of his conviction and sentence from the
28 Contra Costa County Superior Court.

1 The resentencing that occurred in 2016 does not remove the *Heck* bar because Mr.
2 Coleman’s conviction was not set aside and there was no retrial. He was resentenced due to a new
3 interpretation of the Three Strikes law in *Vargas*, 59 Cal. 4th 635. Neither the new interpretation
4 of the sentencing provision, nor the resentencing, affect the conviction that remains in place.

5 The Court found only one case from the Ninth Circuit where a prisoner was allowed to
6 pursue a § 1983 claim regarding his criminal trial while a conviction was in place, but that case is
7 distinguishable from Mr. Coleman’s situation and actually provides further support for the
8 conclusion that *Heck* bars Mr. Coleman’s complaint. In *Jackson v. Barnes*, 749 F.3d 755 (2014),
9 the plaintiff had been “convicted at his first trial in which the prosecution relied on evidence
10 obtained in violation of his *Miranda* rights, and after the conviction was reversed he was again
11 convicted, this time without the use of the illegally obtained evidence. The plaintiff then sued for
12 the violation of his *Miranda* rights at the first trial.” *Id.* at 758. The Ninth Circuit rejected the
13 argument that *Heck* barred the claim. Because only the second conviction was in place and it was
14 “undisputed that the second conviction was insulated from the inculpatory statements” that were
15 the subject of the § 1983 claim, the claim was not barred by *Heck*. *Jackson*, 749 F.3d at 760. The
16 Ninth Circuit determined that a “judgment in Jackson’s favor would --far from ‘necessarily
17 imply[ing]’ the invalidity of his second conviction--not have any bearing on it.” *Id.* Unlike the
18 situation in *Jackson*, Mr. Coleman’s conviction has not been set aside. Mr. Coleman has not
19 received a new trial free of the alleged errors that gives rise to his § 1983 claims; the § 1983
20 claims would call into question a conviction for which he is currently serving a sentence. Also,
21 unlike the situation in *Jackson*, Mr. Coleman seeks to have his conviction invalidated in addition
22 to his requests for damages and declaratory relief. *See id.* at 758 (describing the suit as one for
23 damages and concluding that damages claim could go forward, although plaintiff “will in all
24 likelihood recover only minimal damages” because he was convicted at the second trial at which
25 the un-*Mirandized* statement was not used). Whereas the *Jackson* plaintiff was not attempting to
26 overturn the conviction that was in place, Mr. Coleman is attempting to do just that. That Mr.
27 Coleman is seeking to have his conviction invalidated further emphasizes that his claims are
28 directed at the conviction that remains in place, and that is a classic *Heck* scenario.

