

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-02527-BNB

STEVEN ROMERO,

Plaintiff,

v.

K. DREFUSS #99033, Denver Police,
A. BLOOM #05113, Denver Police,
M. ALLEN #84063, Denver Police,
W. HYNES #01025, Denver Police,
JULIE HAMMAL #32136, District Attorney,
PHELICIA KOSSIE-BUTLER #35100, Public Defender,
KRISTI SANDERS-KNIGHT #16182, Public Defender,
DENVER POLICE DEPARTMENT,
COLORADO STATE PUBLIC DEFENDERS OFFICE,
WILLIAM D. ROBBINS, Judge, 1437 Bannock 80202,
UNITED STATES ATTORNEY GENERAL, John Suthers, and
JOSE SANCHEZ, Asst. Att. General,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

FEB 07 2008

GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

Plaintiff, Steven Romero, is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Kit Carson Correctional Center in Burlington, Colorado. Mr. Romero filed *pro se* an amended civil rights complaint pursuant to 42 U.S.C. § 1983 (2006) challenging the validity of his state court conviction and sentence. As relief Mr. Romero asks for money damages.

The Court must construe the amended complaint liberally because Mr. Romero is representing himself. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). If the amended complaint reasonably

can be read “to state a valid claim on which the plaintiff could prevail, [the Court] should do so despite the plaintiff’s failure to cite proper legal authority, his confusion of various legal theories, his poor syntax and sentence construction, or his unfamiliarity with pleading requirements.” *Hall*, 935 F.2d at 1110. However, the Court should not be an advocate for a *pro se* litigant. *See id.* For the reasons stated below, the Court will dismiss the amended complaint and the action.

As noted above, Mr. Romero is challenging the validity of his conviction and sentence, apparently on state charges of menacing. He appears to be suing the Denver police officers who arrested him in March 2006, their police department, the district attorney who prosecuted him in the state court criminal proceedings, the public defenders who represented him, their state public defenders’ office, and the state court judge who convicted and sentenced him. It is not clear why he is suing the state attorney general and assistant attorney general.


In any case, Mr. Romero may not recover damages for the claims he is asserting because those claims challenge the validity and execution of his conviction and sentence. *See Heck v. Humphrey*, 512 U.S. 477 (1994). In *Heck*, the United States Supreme Court held that if a judgment for damages favorable to a prisoner in a 42 U.S.C. § 1983 action necessarily would imply the invalidity of his criminal conviction or sentence, the § 1983 action does not arise until the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by an authorized state tribunal, or called into question by the issuance of a federal habeas writ. *See Heck*, 512 U.S. at 486-87.

Mr. Romero does not allege, and nothing in the Court's file indicates, that he has invalidated either his conviction or his sentence. In fact, it is apparent that Mr. Romero has not invalidated his conviction or sentence because he currently is incarcerated in a state correctional facility. Therefore, the amended complaint for damages is barred by **Heck**, and will be dismissed. The dismissal will be without prejudice. **See Fottler v. United States**, 73 F.3d 1064, 1065 (10th Cir. 1996). Accordingly, it is

ORDERED that the amended complaint and the action are dismissed without prejudice as barred by the rule in **Heck v. Humphrey**, 512 U.S. 477 (1994).

DATED at Denver, Colorado, this 7 day of February, 2008.

BY THE COURT:



ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 07-cv-02527-BNB

Steven Romero
Prisoner No. 135489
Kit Carson Corr. Center
PO Box 2000
Burlington, CO 80807

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the
above-named individuals on 4/7/08

GREGORY C. LANGHAM, CLERK

By: 
Deputy Clerk