

**IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Mance

,

Plaintiff(s),

v.

Officer Tyrone, et al,

Defendant(s).

Case No. 15 C 11255

Judge Sharon Johnson Coleman

ORDER

Under *Heck v. Humphrey*, 512 U.S. 477, 114 S.Ct. 2364, 129 L.Ed.2d 383 (1994), a section 1983 action cannot be premised on factual allegations that would imply the invalidity of a criminal conviction. *Tolliver v. City of Chicago*, 820 F.3d 237, 243 (7th Cir. 2016). To the extent that Mance's claims arise from facts inconsistent with the factual basis for his guilty plea-- such as his denial of any wrongdoing or his assertion that the car he was in was parked-- this Court agrees that those claims are barred. Mance, however, alleges that he was subjected to excessive force both after he had been handcuffed and after he had been placed in a police wagon. The factual basis for Mance's guilty plea describes his conduct while he was "being placed under arrest," but it does not indicate whether that conduct occurred before or after he had been handcuffed or placed in the police wagon. Because of this ambiguity, this Court cannot conclude at this stage in the proceedings that Mance's claims of excessive force inherently imply the invalidity of his criminal conviction and would therefore be barred by *Heck*. The defendants' partial motion to dismiss [22] is accordingly denied. Mance's motion for appointment of counsel or for a continuance [28] is entered and continued to the 1/6/2017 status.

Date: 12/20/2016

/s/ Sharon Johnson Coleman

Sharon Johnson Coleman

United States District Court Judge