

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONNIE ANTHONY THOMAS-DAWSON,

Plaintiff,

v.

Case No.: 17-13210

Honorable Gershwin A. Drain

TOM COLLINS, *et al.*,

Defendants.

**ORDER ACCEPTING AND ADOPTING REPORT AND RECOMMENDATION
[#7], OVERRULING PLAINTIFF'S OBJECTION [#8] AND DISMISSING
ACTION PURSUANT TO 28 U.S.C. § 1915(e)**

Presently before the Court is Plaintiff's 42 U.S.C. § 1983 action raising claims of false arrest and false imprisonment. On February 14, 2018, Magistrate Judge David R. Grand issued a Report and Recommendation recommending that this matter be dismissed pursuant to *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994) and 28 U.S.C. § 1915(e). On March 6, 2018, Plaintiff filed his Objection to Magistrate Judge Grand's Report and Recommendation. For the reasons that follow, the Court will overrule Plaintiff's Objection, accept and adopt Magistrate Judge Grand's Report and Recommendation and dismiss this matter pursuant to 28 U.S.C. § 1915(e).

The instant action stems from Plaintiff's arrest and subsequent convictions for committing armed robbery, MICH. COMP. LAWS §750.29, assault with intent to do great

bodily harm less than murder, MICH. COMP. LAWS § 750.84, felony firearm, MICH. COMP. LAWS § 750.227b, and carrying a concealed weapon, MICH. COMP. LAWS § 750.227. The claims asserted in his present complaint assert that the Defendants falsely arrested him, and mislead witnesses which led to his false imprisonment and purported unlawful criminal proceedings.

The Magistrate Judge correctly concluded that Plaintiff's claims are barred by *Heck v. Humphrey* because success on his claims would necessarily invalidate his convictions. 512 U.S. at 486-87; *Wilkinson v. Dotson*, 544 U.S. 74, 81-82 (2005). In his objection, Plaintiff reasserts his belief that his claims of false arrest and false imprisonment are valid. Plaintiff is incorrect; his claims are characteristic claims attacking the fact of his convictions and require proof that his conviction or sentence has been reversed, expunged or declared invalid. *Heck*, 512 U.S. at 486-87. This he has not done.

Accordingly, this matter is subject to dismissal because it “fails to state a claim upon which relief can be granted[.]” 28 U.S.C. § 1915(e)(2)(B). The Court hereby ADOPTS and ACCEPTS Magistrate Judge David R. Grand's Report and Recommendation [#7] as this Court's factual findings and conclusions of law. Plaintiff's objections [#8] are OVERRULED. This cause of action is DISMISSED pursuant to 28 U.S.C. § 1915(e).

SO ORDERED.

Dated: April 30, 2018

/s/Gershwin A. Drain
GERSHWIN A. DRAIN
United States District Judge

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
April 30, 2018, by electronic and/or ordinary mail.

/s/ Tanya Bankston
Deputy Clerk