

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILL ARCHER JACKSON,

Plaintiff,

Case No. 1:13-cv-100

v.

Honorable Janet T. Neff

JEFFREY B. TAYLOR et al.,

Defendants.

OPINION

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983. The Court has granted Plaintiff leave to proceed *in forma pauperis*. Under the Prison Litigation Reform Act, PUB. L. NO. 104-134, 110 STAT. 1321 (1996), the Court is required to dismiss any prisoner action brought under federal law if the complaint is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant immune from such relief. 28 U.S.C. §§ 1915(e)(2) and 1915A. The Court must read Plaintiff's *pro se* complaint indulgently, *see Haines v. Kerner*, 404 U.S. 519, 520 (1972), and accept Plaintiff's allegations as true, unless they are clearly irrational or wholly incredible. *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). Applying these standards, Plaintiff's action will be dismissed as frivolous.

Factual Allegations

Plaintiff Will Archer Jackson presently is incarcerated at the Lakeland Correctional Facility. He currently is serving a prison term of 20 to 80 years, imposed by the Berrien County Circuit Court on July 26, 1999, after Plaintiff pleaded guilty to second-degree murder, MICH. COMP. LAWS § 750.317. Plaintiff unsuccessfully appealed his convictions in the state courts and later unsuccessfully sought federal habeas corpus relief. *See Jackson v. Howes*, 1:07-cv-137 (W.D. Mich. Mar. 27, 2007).

Plaintiff now sues Berrien County Circuit Judge Dennis M. Wiley and Berrien County Assistant Prosecutor Jeffrey B. Taylor for alleged civil rights violations in prosecuting and convicting him on the murder charge. Plaintiff's complaint consists of specious UCC-based arguments. He alleges that he is a secured party creditor who was kidnaped and fraudulently confined without jurisdiction when Defendants improperly charged and convicted him as WILL ARTHUR JACKSON instead of "Will Arthur Jackson©," failed to recognize his assigned security agreement indemnifying him from all process, and improperly asserted maritime jurisdiction over him. (Compl., docket #1, Page ID##4, 7-8.) For relief, he seeks immediate release from prison and \$156 million in damages.

Discussion

I. Frivolousness

An action may be dismissed as frivolous if "it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Lawler v. Marshall*, 898 F.2d 1196, 1198 (6th Cir.1990). Claims that lack an arguable or rational basis in law include claims for which the defendants are clearly entitled to immunity and claims of infringement of a legal interest which

clearly does not exist; claims that lack an arguable or rational basis in fact describe fantastic or delusional scenarios. *Neitzke*, 490 U.S. at 327-28; *Lawler*, 898 F.2d at 1199. The Court has the “unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless.” *Neitzke*, 490 U.S. at 327. “A finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them.” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). “Examples of claims lacking rational facts include a prisoner’s assertion that Robin Hood and his Merry Men deprived prisoners of their access to mail or that a genie granted a warden’s wish to deny prisoners any access to legal texts.” *Lawler*, 898 F.2d at 1199. An *in forma pauperis* complaint may not be dismissed, however, merely because the court believes that the plaintiff’s allegations are unlikely. *Id.*

Plaintiff’s claims are both legally and factually frivolous. First, to the extent Plaintiff seeks release from custody, his action is not cognizable in this proceeding. A challenge to the fact or duration of confinement should be brought as a petition for habeas corpus and is not the proper subject of a civil rights action brought pursuant to § 1983. *See Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) (the essence of habeas corpus is an attack by a person in custody upon the legality of that custody and the traditional function of the writ is to secure release from illegal custody). Therefore, to the extent that Plaintiff’s complaint challenges the fact or duration of his incarceration, it must be dismissed. *See Adams v. Morris*, 90 F. App’x 856, 858 (6th Cir. 2004) (dismissal is appropriate where § 1983 action seeks equitable relief and challenges fact or duration of confinement); *see also Moore v. Pemberton*, 110 F.3d 22, 23-24 (7th Cir. 1997) (reasons for not construing a § 1983 action as one seeking habeas relief include (1) potential application of *Heck v. Humphrey*, 512 U.S. 477

(1994), (2) differing defendants, (3) differing standards of § 1915(a)(3) and § 2253(c), (4) differing fee requirements, (5) potential application of second or successive petition doctrine or three-strikes rules of § 1915(g)).

Second, to the extent Plaintiff seeks injunctive, declaratory and monetary relief for alleged violations of Constitutional rights, his claim is barred by *Heck*, 512 U.S. 477. In *Heck*, the Supreme Court held that a state prisoner cannot make a cognizable claim under § 1983 for an alleged unconstitutional conviction or for “harm caused by actions whose unlawfulness would render a conviction or sentence invalid” unless a prisoner shows that the conviction or sentence has been “reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s issuance of a writ of habeas corpus.” *Id.* at 486-87 (footnote omitted). The holding in *Heck* has been extended to actions seeking injunctive or declaratory relief. See *Edwards v. Balisok*, 520 U.S. 641, 646-48 (1997) (declaratory relief); *Clarke v. Stalder*, 154 F.3d 186, 189-90 (5th Cir. 1998) (claim for injunctive relief intertwined with request for damages); *Wilson v. Kinkela*, No. 97-4035, 1998 WL 246401, at *1 (6th Cir. May 5, 1998) (injunctive relief). Plaintiff’s allegations that Defendants lacked jurisdiction to charge, convict and confine him clearly call into question the validity of his conviction. Therefore, his action is barred under *Heck* until his criminal conviction has been invalidated.

Third, both Defendant Wiley and Defendant Taylor are entitled to absolute immunity from damages. Generally, a judge is absolutely immune from a suit for monetary damages. *Mireles v. Waco*, 502 U.S. 9, 9-10 (1991) (“[I]t is a general principle of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority vested in him, shall be free

to act upon his own convictions, without apprehension of personal consequences to himself.”) (internal quotations omitted); *Barrett v. Harrington*, 130 F.3d 246, 254 (6th Cir. 1997); *Barnes v. Winchell*, 105 F.3d 1111, 1115 (6th Cir. 1997). Absolute judicial immunity may be overcome in only two instances: (1) a judge is not immune from liability for non-judicial actions, i.e., actions not taken in the judge’s judicial capacity, *Mireles*, 502 U.S. at 11; and (2) a judge is not immune for actions, though judicial in nature, taken in complete absence of all jurisdiction. *Id.* at 12.

Plaintiff’s allegations clearly fail to implicate either of the exceptions to judicial immunity. There is no doubt that arraigning Plaintiff, accepting his plea and sentencing Plaintiff were judicial acts. Moreover, notwithstanding Plaintiff’s declaration that he is not subject to state law, Judge Wiley, as a state circuit-court judge, clearly was acting within his jurisdiction in overseeing the adjudication of state felony charges. *See* MICH. CONST. 1963, art. VI, §§ 13, 29; MICH. COMP. LAWS § 600.601. Accordingly, Wiley is absolutely immune from liability in this case, and Plaintiff may not maintain an action for monetary damages against him. 28 U.S.C. § 1915(e)(2)(B)(iii). Moreover, injunctive relief is not available under § 1983, because that statute provides that injunctive relief “shall not be granted” in an action against “a judicial officer for an act or omission taken in such officer’s judicial capacity . . . unless a declaratory decree was violated or declaratory relief was unavailable.” 42 U.S.C. § 1983; *accord Savoie v. Martin*, 673 F.3d 488, 496 (6th Cir. 2012). Plaintiff does not allege that a declaratory decree was violated or that declaratory relief was unavailable. Consequently, any claim against Defendant Wiley for injunctive relief is barred. *Montero v. Travis*, 171 F.3d 757, 761 (2d Cir. 1999).

Similarly, a prosecutor also is entitled to absolute immunity for his actions in prosecuting a criminal action. The Supreme Court embraces a functional approach to determining

whether a prosecutor is entitled to absolute immunity. *Kalina v. Fletcher*, 522 U.S. 118, 127 (1997); *Burns v. Reed*, 500 U.S. 478, 486 (1991); *Forrester v. White*, 484 U.S. 219, 229 (1988); accord *Koubriti v. Convertino*, 593 F.3d 459, 467 (6th Cir. 2010); *Lomaz v. Hennosy*, 151 F.3d 493, 497 (6th Cir. 1998). Under a functional analysis, a prosecutor is absolutely immune when performing the traditional functions of an advocate. *Kalina*, 522 U.S. at 130; *Spurlock v. Thompson*, 330 F.3d 791, 797 (6th Cir. 2003); *Grant v. Hollenbach*, 870 F.2d 1135, 1137 (6th Cir. 1989). The Supreme Court has held that a prosecutor is absolutely immune for the initiation and pursuit of a criminal prosecution. *Imbler v. Pachtman*, 424 U.S. 409, 431 (1976); *Lomaz*, 151 F.3d at 497. Acts which occur in the course of the prosecutor's role as advocate are entitled to protection of absolute immunity in contrast to investigatory or administrative functions that are normally performed by a detective or police officer. *Buckley v. Fitzsimmons*, 509 U.S. 259, 273, 276-78 (1993); *Grant*, 870 F.2d at 1137. In the Sixth Circuit, the focus of the inquiry is how closely related the prosecutor's conduct is to his role as an advocate intimately associated with the judicial phase of the criminal process. *Spurlock*, 330 F.3d at 797; *Ireland v. Tunis*, 113 F.3d 1435, 1443 (6th Cir. 1997). Obviously, charging and prosecuting a defendant in a criminal action is part of the prosecutor's role as an advocate. Accordingly, Defendant Taylor is entitled to immunity.

For all these reasons, Plaintiff's claims against Defendants Wiley and Taylor are legally frivolous. In addition, Plaintiff's factual assertions concerning his secured-party status, his indemnity agreements, his sovereign status, the application of admiralty jurisdiction and the Uniform Commercial Code are all patently irrational and factually frivolous. Plaintiff's complaint therefore will be dismissed as frivolous.

Conclusion

Having conducted the review required by the Prison Litigation Reform Act, the Court determines that Plaintiff's action will be dismissed as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b).

The Court must next decide whether an appeal of this action would be in good faith within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997). For the same reasons that the Court dismisses the action, the Court discerns no good-faith basis for an appeal. Should Plaintiff appeal this decision, the Court will assess the \$455.00 appellate filing fee pursuant to § 1915(b)(1), *see McGore*, 114 F.3d at 610-11, unless Plaintiff is barred from proceeding *in forma pauperis*, e.g., by the "three-strikes" rule of § 1915(g). If he is barred, he will be required to pay the \$455.00 appellate filing fee in one lump sum.

This is a dismissal as described by 28 U.S.C. § 1915(g).

A Judgment consistent with this Opinion will be entered.

Dated: February 25, 2013

/s/ Janet T. Neff
Janet T. Neff
United States District Judge