UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DANIEL THOMAS TEPOEL,

Civil No. 17-939 (JRT/HB)

Plaintiff,

v.

WILLIAM M. CONLEY, *in his personal capacity*, JANE DOE CONLEY, *husband and wife and their marital community*, BARBARA B. CRABB, *in her personal capacity*, JOHN DOE CRABB, *husband and wife and their marital community*, JOHN WILLIAM VAUDREUIL, *in his personal capacity*, JANE DOE VAUDREUIL, *husband and wife and their marital community*, UNITED STATES OF AMERICA, and U.S. DISTRICT COURT, WESTERN DISTRICT OF WISCONSIN,

ORDER ADOPTING REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE

Defendants.

Daniel Thomas TePoel, No. 06413-090, Federal Prison Camp-Duluth, P.O. Box 1000, Duluth, MN 55814, *pro se*.

Plaintiff Daniel Thomas TePoel is currently serving a sentence for a wire fraud conviction at the Federal Prison Camp in Duluth, Minnesota. TePoel filed this civil action against two federal judges and a federal prosecutor, along with an application to proceed without prepayment of fees, on March 27, 2017. (Compl., Mar. 27, 2017, Docket No. 1.) United States Magistrate Judge Hildy Bowbeer reviewed TePoel's action pursuant to 28 U.S.C. § 1915A(a), which directs the court to "review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or

employee of a governmental entity." If the court finds the complaint "frivolous, malicious, or [that it] fails to state a claim," 28 U.S.C. § 1915A(b) directs the court to dismiss the complaint. On April 7, 2017, the Magistrate Judge issued a Report and Recommendation ("R&R"), finding TePoel alleged frivolous and malicious claims, and recommending the Court summarily dismiss the action under 28 U.S.C. § 1915A. (R&R at 3, Apr. 7, 2017, Docket No. 3.)

Upon the filing of an R&R by a magistrate judge, a party may "serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); *accord* D. Minn. LR 72.2(b). On April 13, 2017, TePoel filed objections to the Magistrate Judge's R&R. (Specific Objs. for the R., Apr. 13, 2017, Docket No. 4.) TePoel, however, does not object to the Magistrate Judge's analysis or conclusion; TePoel instead objects to the docket's descriptions of his action, his complaint, and his name. (*Id.* at 1-2.)

TePoel also filed an Amended Complaint, which provided further discussion of his action. (Am. Bill in Equity, Apr. 24, 2017, Docket No. 5.) This new filing does not save TePoel's action. Indeed, TePoel's new allegations only confirm the Magistrate Judge's suspicion that TePoel is improperly attempting to challenge his conviction using this civil action. (*See* R&R at 3 n.1.) For example, TePoel alleges that his conviction is "void for failure to comply with constitutional requirements" and that he "must be exonerated and released." (Am. Bill in Equity at 8, 11.) Accordingly, to the extent TePoel clarified his allegations, they are barred by *Heck v. Humphrey*, under which a prisoner-plaintiff cannot maintain a claim for damages that "would render a conviction or sentence invalid," unless the conviction or sentence has been invalidated. 512 U.S. 477, 486-87 (1994).

Because the Court finds TePoel's specific objections are irrelevant to the conclusions reached in the R&R and the Magistrate Judge properly found TePoel's action fails under § 1915A, the Court will overrule TePoel's objections, adopt the Magistrate Judge's R&R, and dismiss TePoel's action.

ORDER

Based on the foregoing, and all of the files, records, and proceedings herein, the Court **OVERRULES** Plaintiff Daniel Thomas TePoel's objections [Docket No. 4] and **ADOPTS** the Report and Recommendation of the Magistrate Judge [Docket No. 3]. Accordingly, **IT IS HEREBY ORDERED** that:

1. This action is **SUMMARILY DISMISSED** pursuant to 28 U.S.C. § 1915A.

2. TePoel's Application to Proceed in District Court without Prepaying Fees or Costs [Docket No. 2] is **DENIED**.

3. TePoel is ordered to pay the unpaid balance of the statutory filing fee for this action in the manner prescribed by 28 U.S.C. § 1915(b)(2), with an initial partial filing fee of $19.63 due and payable immediately, and the Clerk of Court is directed to provide notice of this requirement to the authorities at the institution where TePoel is confined.

LET JUDGMENT BE ENTERED ACCORDINGLY.

DATED: August 6, 2017
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
Chief Judge
United States District Court