

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

WILLIAM CRENSHAW,

Plaintiff,

DECISION AND ORDER

08-CV-6186L

v.

C.O. RICHARD HAMILTON,

Defendant.

Plaintiff, William Crenshaw, an inmate in the custody of the New York State Department of Corrections and Community Supervision, has filed a “motion to have [his] false misbehavior report expunged in it’s [sic] entirety.” Dkt. #122.

The motion is denied. Since the underlying disciplinary conviction has not been overturned, and plaintiff has not demonstrated that that he is likely to succeed on his underlying claims, there is no basis for this Court to grant the relief requested. *See Smith v. Woods*, 219 Fed.Appx. 110, 111 (2d Cir. 2007) (“Because Smith’s disciplinary conviction has not been reversed, expunged, or otherwise invalidated, his claim that his due process rights were violated at the disciplinary hearing must fail”) (citing *Edwards v. Balisok*, 520 U.S. 641, 647 (1997)); *Salvatierra v. Connolly*, No. 09 Civ. 3722, 2010 WL 5480756, at *24 (S.D.N.Y. Sept. 1, 2010) (“Plaintiff’s request that a false misbehavior report be expunged from his record should be denied because Plaintiff has not made a ‘clear’ or ‘substantial’ showing of likelihood of success on his underlying claims”).

CONCLUSION

Plaintiff's motion for an order directing the expungement of his misbehavior report (Dkt. #122) is denied.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "David G. Larimer", written over a horizontal line.

DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
January 10, 2012.