

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

STEPHEN SIGL, 08-B-3709,

Plaintiff,

-v-

SGT. MICHEL ROFFE, Police Officer;
SGT. STANLEY CHIZUK, Police Officer
and SANDRA DOORLEY,
Monroe County Asst. District Attorney;

Defendants.

DECISION and ORDER
11-CV-6135Fe



Plaintiff was directed to file an amended complaint to allow the Court to perform the necessary review pursuant to 28 U.S.C. §§ 1915 and 1915A. Plaintiff has filed an amended complaint.

Plaintiff 's complaint alleged that the defendants, Greece Police Sergeants Michel Roffe and Stanley Chizuk, and Monroe County Assistant District Attorney Sandra Doorley, violated his rights when the police officers and the Assistant District Attorney entered his home without a warrant or probable cause and without exigency, and entered into a conspiracy to fabricate charges against him. Plaintiff also alleged violation of his right to be free of unreasonable search and seizure and right to counsel during interrogation. Because the Court could not evaluate from the information supplied whether the accrual of plaintiff's claims must be deferred based on the principles of *Heck v. Humphrey*, 512 U.S. 477 (1994), plaintiff was directed to amend his complaint to address the following issues. "If plaintiff was convicted of a charge on the basis of the alleged illegal search and

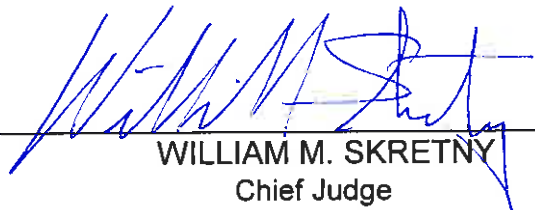
seizure or interrogation, he must state what he was charged with, what he was convicted of, and whether he has invalidated that conviction by appeal, habeas corpus petition, or otherwise. If his interrogation without counsel was used against him in some other manner, he must state how he was harmed."

Plaintiff's amended complaint makes clear that he was convicted of two of the eight charges for which he was arrested, and that statements he made during what he alleges was an unlawful search, seizure and interrogation were used against him in that prosecution. He also indicates that he is planning an appeal of the convictions, making clear that he has not invalidated the resulting convictions. This complaint must, therefore, be dismissed as premature pursuant to *Wallace v. Kato*, 549 U.S. 384 (2007) and *Heck v. Humphrey*, because the challenged actions would impugn an extant conviction.

This action is hereby dismissed.

SO ORDERED.

Dated: 5/11, 2011
Buffalo, New York


WILLIAM M. SKRETNY
Chief Judge
United States District Court