

Case No. 1:12-CV-2395
Gwin, J.

In *Heck v. Humphrey*, the Supreme Court established a bar to the right to relief under 42 U.S.C. § 1983.^{5/} In the context of a § 1983 claim, “district courts are charged with considering whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence.”^{6/} If the court finds that it would, “the complaint must be dismissed unless the plaintiff can demonstrate that the conviction . . . has already been invalidated.”^{7/} Here, a judgment in favor of Plaintiffs Holson and Pepper would “necessarily impugn the validity of their state court convictions.”^{8/} Therefore, Plaintiffs must demonstrate that their state convictions have already been invalidated.

To demonstrate that a conviction has been invalidated, a § 1983 plaintiff must show that it 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*.”^{9/} Plaintiffs do not allege any facts to suggest that their convictions have been invalidated.^{10/} Plaintiffs’ state convictions currently stand.^{11/} Contrary to Plaintiffs’ argument, a pending appeal does not invalidate a state conviction for the purposes of a *Heck* analysis.^{12/} Therefore, Plaintiffs cannot proceed with claims 1, 2, 3, and 9 of this action because they are barred

^{5/} [Heck v. Humphrey, 512 U.S. 477, 487 \(1994\).](#)

^{6/} [Heck, 512 U.S. at 485-87.](#)

^{7/} *Id.*

^{8/} Doc. [74](#), at 6.

^{9/} [Heck, 512 U.S. at 486-87.](#)

^{10/} See Doc. [132](#) (Plaintiff does not provide any evidence to show that their convictions were “invalidated” by a procedure outlined in *Heck*.)

^{11/} Doc. [132-1](#); Doc. [132-2](#).

^{12/} [Jackson v. Villanueva, 1:13 CV 970, 2013 WL 4758036 at *2 \(N.D. Ohio Sept. 4, 2013\)](#) (“[Plaintiff] filed a direct appeal of his conviction to the Ohio Eighth District Court of Appeals, and that appeal is still pending. He therefore cannot proceed with his claims in this action.”); [Hobbs v. Cnty. of Summit, 5:10CV2069, 2012 WL 359698 at *4 \(N.D. Ohio Feb. 2, 2012\)](#) (“Of course, Plaintiff cannot demonstrate that her conviction or sentence has been invalidated because her criminal appeal is currently pending before the Ohio Supreme Court.”).

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by the *Heck* doctrine.

Accordingly, the Court **DENIES** Plaintiffs' Motion for Relief from Judgment and/or For Reconsideration.

IT IS SO ORDERED

Dated: October 17, 2013

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE