

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DARNELL EDWARDS,

Plaintiff,

v.

LISA FIECK, CORRECTIONS FIELD
SUPERVISOR, ASHLEY OLIPHANT
P AND P AGENT, and KATIE
RAUSCHER MAGISTRATE,

Defendants.

OPINION AND ORDER

Case No. 20-cv-703-wmc

Pro se plaintiff Darnell Edwards brings this proposed civil action under 42 U.S.C. § 1983, claiming that the proceedings leading up to his 2018 revocation violated his constitutional rights. Since he is no longer incarcerated or serving extended supervision for the revocation he challenges, he is seeking monetary damages only. Having been permitted to proceed *in forma pauperis*, Edwards' complaint requires screening. 28 U.S.C. § 1915(e)(2). For the reasons that follow, Edwards' complaint will be dismissed with prejudice.

ALLEGATIONS OF FACT¹

Plaintiff Darnell Edwards names the following individuals as defendants: Lisa Fieck, a Wisconsin Department of Corrections field supervisor; Ashley Oliphant, a probation

¹ As reflected below, the court also supplements the allegations in the complaint with dates and information about plaintiff's underlying criminal cases from the electronic docket available at Wisconsin Circuit Court Access, <https://wcca.wicourts.gov>. The court draws all other allegations of fact from plaintiff's complaint, accepting them as true and construing them generously in plaintiff's favor. *Haines v. Kerner*, 404 U.S. 519, 521 (1972).

agent; and Katie Rauscher, an administrative law judge (“ALJ”).

In February of 2018, Edwards was serving probation in Vernon County, related to his conviction for child abuse, in violation of Wis. Stat. § 948.03(2)(b). *State v. Edwards*, No. 2017CF118 (Vernon Cty.). On February 20, 2018, defendant Fieck assigned defendant Oliphant to be Edwards’ probation agent. Oliphant allegedly determined that Edwards violated the terms of his probation based on a statement from his son’s teacher on or around March 2, 2018, who appears to have alleged that his son reported that Edwards physically abused him.

According to Edwards, after this report, Wisconsin family services conducted an investigation, during which Edwards’ son eventually admitted that he lied to the teacher about the abuse. Despite his son changing his story, Oliphant did not drop the hearing to revoke Edwards’ probation. Rather, on March 19, 2018, a probable cause hearing was held before ALJ Rauscher, who found no probable cause for revocation. However, that day Fieck allegedly ordered that a new probable cause hearing be held, based on allegedly false and coerced statements by the teacher who had reported the suspected abuse.

In particular, apparently Oliphant spoke with ALJ Rauscher *ex parte* and provided the coerced teacher statement, *and* Rauscher held a second hearing, without ensuring that Edwards’ appointed counsel was present for that hearing. After this second hearing, Rauscher found probable cause to detain him for revocation, Edwards was jailed, and a final revocation hearing was scheduled. Over four months later, on July 27, 2018, Edwards was revoked by Honorable Judge Darcy Rood, and on August 27, 2018, Edwards received a time-served sentence of 158 days in the county jail. Edwards alleges that during the

revocation hearing, Judge Wood stated that Edwards had not committed a crime and that his due process rights had been violated. Edwards maintains that Oliphant made racist comments during the course of the revocation proceedings.

OPINION

Edwards claims that this experience violated his Eighth and Fourteenth Amendment rights. However, his complaint suffers from two defects requiring dismissal of this action.

First, Edwards has not named a defendant subject to suit for monetary damages. Edwards may not sue Fieck or Oliphant for their decisions to pursue Edwards' revocation, since probation officers are entitled to absolute immunity "for their activities that are analogous to those performed by judges," which includes the "decision to grant, revoke, or deny parole, or the signing of an arrest warrant," *Dawson v. Newman*, 419 F.3d 656, 662 (7th Cir. 2005) (citation omitted), as well as the decision to place a "parole hold," *Smith v. Gomez*, 550 F.3d 613, 619 (7th Cir. 2008). Indeed, "probation officers are absolutely immune from suits challenging conduct intimately associated with the judicial phase of the criminal process." *Tobey v. Chibucos*, 890 F.3d 634, 649 (7th Cir. 2018) (recommending revocation is a quasi-judicial act). Nor may Edwards sue ALJ Rauscher for her actions related to the probable cause hearings, since she too is immune from liability for actions taken in her judicial capacity. *Mireles v. Waco*, 502 U.S. 9, 11 (1991) (explaining that judges are entitled to absolute immunity; "judicial immunity is not overcome by allegations of bad faith or malice").

Even assuming Edwards identified a defendant subject to suit, his request for

monetary damages for constitutional violations related to his revocation proceedings appears to be barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). In *Heck*, the United States Supreme Court held that for a plaintiff to recover damages for an “unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid,” the plaintiff must prove “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 determinations, or called into question by a federal court’s issuance of a writ of habeas corpus [under] 28 U.S.C. § 2254.” *Id.* at 486-87. A claim for damages that bears a relationship to a conviction or sentence that has not been so invalidated is not cognizable under 42 U.S.C. § 1983. *Id.* This rule applies regardless of Edwards’ release from custody and the unavailability of habeas relief. *Savory v. Cannon*, 947 F.3d 409, 41-31 (7th Cir. 2020) (“*Heck* controls the outcome where a section 1983 claim implies the invalidity of the conviction or the sentence, regardless of the availability of habeas relief.”).

Edwards has not indicated, and publicly available records do not suggest, that he successfully obtained post-conviction relief by challenging the constitutionality of his revocation, or that he has otherwise overturned his revocation. Accordingly, although the court is dismissing Edwards’ claims because the defendants are immune from suit, it further appears that *Heck* precludes him from pursuing damages for the circumstances surrounding his revocation sentence.

ORDER

IT IS ORDERED that:

1. Plaintiff Darnell Edwards is DENIED leave to proceed, and plaintiff's claims in this lawsuit are dismissed with prejudice.
2. The clerk of court is directed to close this case.

Entered this 5th day of November, 2021.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge