

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with Fed. R. App. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted August 30, 2018*
Decided August 30, 2018

Before

DIANE S. SYKES, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 17-1277

DAVID SCHEURICH,
Plaintiff-Appellant,

Appeal from the United States District
Court for the Central District of Illinois.

v.

No. 16-CV-2253

CHAMPAIGN COUNTY SHERIFF'S
OFFICE,
Defendant-Appellee.

Colin S. Bruce,
Judge.

ORDER

David Scheurich, a former fugitive from Illinois, sued the Champaign County Sheriff's Office under 42 U.S.C. § 1983 for its role in extraditing him from Arkansas to Illinois to serve a prison sentence. Scheurich alleges that the extradition violated the due process and extradition clauses of the U.S. Constitution. The district court decided that his complaint failed to state a claim because no defendant participated in any

* We have agreed to decide this case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. *See* FED. R. APP. P. 34(a)(2)(C).

constitutional deprivation and, alternatively, his claims were barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). We agree with both rationales and affirm.

Scheurich's extradition prompted him to file two lawsuits in August 2016. He brought the first suit in the Southern District of Illinois against the two Illinois agents who transported him. He alleged that the agents extradited him before the Arkansas state courts had resolved his application for a writ of habeas corpus, in violation of the U.S. Constitution, 18 U.S.C. § 3182, and the Arkansas Uniform Criminal Extradition Act. *See* U.S. CONST. art. IV, § 2, cl. 2; 18 U.S.C. § 3182; ARK. CODE §§ 16-94-201 to -231. The district court dismissed Scheurich's suit as barred by *Heck* because his claim for damages assumed that his underlying Illinois judgment was invalid, and we affirmed. *Scheurich v. Doe 1*, 723 F. App'x 378, 379–80 (7th Cir. 2018).

One day after filing his suit in the Southern District of Illinois, Scheurich brought this civil rights suit in the Central District of Illinois against the Champaign County Sheriff's Office for its role in the extradition. Scheurich alleged that the office's involvement in extraditing him to Illinois violated the due process and extradition clauses of the Constitution because his transport defied an Arkansas court order that he not be surrendered without judicial approval. The district court dismissed his complaint for failure to state a claim. The court noted that liability under 42 U.S.C. § 1983 requires the defendant's personal involvement in the alleged constitutional deprivation, and the Illinois officials here had no duty to ensure that Arkansas complied with its extradition procedures. Alternatively, the court concluded that Scheurich's claim was barred by *Heck* because he had not alleged that his Illinois conviction had been invalidated.

Scheurich filed a notice of appeal and asked the district court for leave to proceed in forma pauperis. The court gave him three weeks (and then a two-week extension) to specify his basis for appealing so that it could decide whether he was appealing in good faith. The deadline came and went, and ten days later the court denied the request to proceed IFP. Less than three hours after the court issued its denial, a brief from Scheurich was filed that stated his grounds for appeal. The court denied that filing as moot. Scheurich then sought permission from this court to proceed IFP, and we denied the request. He paid the filing fee and the appeal went forward.

In Scheurich's appellate brief, he focuses mostly on the district court's denial of his motion to proceed on appeal IFP. He insists that he timely filed his statement of reasons for appealing, and that the court's disregard of his filing was "intentional

malpractice.” But even if we assume that the district court erred by not addressing the substance of his motion, this court did consider it and we denied the motion. Scheurich has given us no reason to revisit that ruling.

Scheurich next asserts that the judge’s conclusion that his case is *Heck*-barred “is a complete false statement,” but he does not elaborate why the judge erred. In any event, we agree with the judge that *Heck* precludes this suit. An extradited prisoner serving a sentence under a valid criminal judgment may not recover damages based merely on “the denial of an opportunity to test the facial validity of the extradition demand.” *Knowlin v. Thompson*, 207 F.3d 907, 909 (7th Cir. 2000). As we explained in Scheurich’s prior appeal, any showing that he was not extraditable through proper procedures “would necessarily imply the invalidity of” his current prison sentence because it would require him to prove that Illinois should not have imprisoned him at all—which cannot be shown through a § 1983 suit. *See Heck*, 512 U.S. at 486–87.

AFFIRMED