

NONPRECEDENTIAL DISPOSITION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 14, 2024*

Decided August 15, 2024

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 24-1234

ROBERT W. GOLDSMITH,
Plaintiff-Appellant,

v.

JAMES GARRETT, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of Illinois,
Eastern Division.

No. 23 C 14429

LaShonda A. Hunt,
Judge.

ORDER

Robert Goldsmith appeals the dismissal of his complaint asserting that his parole officer and various employees of the Illinois Department of Corrections and Illinois

* The defendants-appellees were not served with process and are not participating in this appeal. We have agreed to decide the case without oral argument because the brief 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).

Prisoner Review Board violated his constitutional rights. But Goldsmith's suit is barred by *Heck v. Humphrey*, 512 U.S. 477, 486–87 (1994), and so we affirm.

We credit the facts alleged in Goldsmith's complaint for the purpose of reviewing a dismissal on the pleadings. See *Courtney v. Butler*, 66 F.4th 1043, 1046 (7th Cir. 2023). Goldsmith was sentenced to four years of mandatory supervised release to begin after his prison sentence for state convictions that are not relevant to this appeal. After leaving prison, Goldsmith joined a local Masonic lodge, which also had some employees of the Department among its members. One was Jason Garrett, and Goldsmith says that Garrett immediately disliked him. At some point, Goldsmith was removed from the Freemasons, and Goldsmith believes that Garrett's "influence and clout as an officer of the Freemason's Lodge" was the sole reason for his removal.

Goldsmith also believes that Garrett used his influence within the Department to have certain conditions of Goldsmith's supervised release altered. Goldsmith was required to wear an electronic monitor for what his parole officer said would be a "short period of time." After over a year, however, it had not been removed, and his parole officer (not named in this lawsuit) told Goldsmith that somebody "high up" in the Department who was connected to the Freemasons would not approve its removal. The monitor was eventually removed after about a year.

A few months later, however, Goldsmith saw a different Department employee he knew from the Freemasons at a car show held near the lodge. Goldsmith complained to him about his belief that Garrett had caused his removal from the Freemasons. Goldsmith learned later that this acquaintance interpreted his statement as a threat and reported it to his parole officer. The next day, Goldsmith's new parole officer, Sheldon Magee, told Goldsmith that he was barred from communicating with Garrett, making derogatory statements about Garrett, and visiting the Masonic lodge for the remainder of his parole. Magee later put these instructions in writing as conditions of parole. Goldsmith was also placed back on electronic monitoring.

In the meantime, Goldsmith had filed three petitions with the Prisoner Review Board. First, when he had the electronic monitor the first time, he asked the Board to remove it. Second, shortly after the incident where he spoke poorly of Garrett, he petitioned the Board to end his supervised release early. Third, he requested that he not be placed back on electronic monitoring after that incident. The Board granted his first petition but never informed him of its decision, and it did not respond to the other two petitions. Goldsmith also never received a hearing to consider early termination of his supervised release.

Based on these facts, Goldsmith filed this lawsuit under 42 U.S.C. §1983. He first asserted that Magee, his parole officer, violated his right to free speech and freedom of association by barring him from speaking negatively about Garrett or visiting the area around the Freemason lodge. Second, he stated that the Board violated his right to petition the government by not responding to his petitions and not granting him early termination of supervised release. Finally, Goldsmith claimed that, because of a personal vendetta, Garrett conspired with Magee, the Board, and others to violate his constitutional rights by reinstating his electronic monitor and preventing the early termination of his supervised release.

The district court dismissed the complaint under 28 U.S.C. §1915A, concluding that Goldsmith's claims were barred under *Heck*, 512 U.S. at 486–87, and that he could challenge his conditions of supervised release only under 28 U.S.C. §2254. Goldsmith then moved to alter or amend the judgment, see FED. R. CIV. P. 59(e), arguing that *Heck* did not bar his claim because he intended to challenge only the procedures by which his conditions were created, not the conditions themselves, and that habeas relief would soon be unavailable to him because his supervised release would end imminently. The district court denied the motion.

On appeal, Goldsmith insists that *Heck* does not preclude his claims. The rule of *Heck* bars litigants from suing under §1983 if relief would necessarily imply the invalidity of a criminal conviction or sentence that remains in force. 512 U.S. at 487. Goldsmith provides three reasons why he believes his claims survive *Heck*: First, he does not challenge the validity of his underlying conviction; second, he wishes to challenge the tainted procedures that resulted in certain conditions of supervised release, not the conditions themselves; and third, his term of supervised release has ended, so he has no remedy under §2254. We review the dismissal of the complaint under §1915A de novo. See *Courtney*, 66 F.4th at 1046.

None of Goldsmith's arguments carries the day. First, it does not matter that Goldsmith is not seeking to vacate his criminal conviction because *Heck* applies when the requested relief would invalidate a criminal sentence as well. 512 U.S. at 487. And we have repeatedly stated that the conditions of supervised release are part of a person's sentence. See *Tobey v. Chibucos*, 890 F.3d 634, 651 (7th Cir. 2018); *Williams v. Wisconsin*, 336 F.3d 576, 579–80 (7th Cir. 2003). Goldsmith's complaint plainly asserts that the defendants subjected him to improper conditions. As the district court explained, therefore, the only way for Goldsmith to challenge their actions is under §2254 (because parole is a form of state custody). See *Tobey*, 890 F.3d at 651.

Second, Goldsmith's challenge to allegedly unconstitutional procedures that led to certain parole conditions does not, as he contends, meaningfully differ from a challenge to the conditions. The theory that unconstitutional procedures led to the additional conditions (based on the statements about Garrett), electric monitoring, or failure to obtain early termination of supervised release cannot be reconciled with the validity of those conditions or the length of supervised release. See *Wilkinson v. Dotson*, 544 U.S. 74, 81 (2005) ("[A] prisoner cannot use §1983 to obtain damages where success *would necessarily* imply the unlawfulness of a (not previously invalidated) conviction or sentence."); *Courtney*, 66 F.4th at 1050.

Finally, the expiration of his custody does not allow Goldsmith to avoid *Heck*. Although several Justices, and at least one court of appeals, have concluded that a claim under §1983 accrues when custody ends—see *Heck*, 512 U.S. at 491–503 (Souter, J., concurring, joined by Blackmun, Stevens & O'Connor, JJ.); *Spencer v. Kemna*, 523 U.S. 1, 21–22 (1998) (Ginsburg, J., concurring); *Leather v. Eyck*, 180 F.3d 420, 424 (2d Cir. 1999)—this court held in *Savory v. Cannon*, 947 F.3d 409 (7th Cir. 2020) (en banc), that the rule of *Heck* continues to apply after a person's release from custody unless the judgment has been set aside by a pardon or equivalent relief. Goldsmith does not contend that his term of supervised release, or any of its conditions, has been set aside by the state's judiciary or by a pardon. He could have sought relief under §2254 while his supervision lasted yet did not do so.

AFFIRMED