

NONPRECEDENTIAL DISPOSITION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 April 15, 2024*

Decided April 16, 2024

Before

MICHAEL B. BRENNAN, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 23-1784

ALDO ORTEGA,
Plaintiff-Appellant,

v.

TANYA FORD, et al.,
Defendants-Appellees.

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

No. 20-cv-36-NJR

Nancy J. Rosenstengel,
Chief Judge.

ORDER

Aldo Ortega, who is serving mandatory supervised release in Illinois, filed this lawsuit, alleging that various officials of the Illinois Department of Corrections violated his constitutional rights and state law by reincarcerating him and maintaining him in custody beyond the time he had a valid host site. Because Ortega's success on his claims

* We have agreed to decide the 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. FED. R. APP. P. 34(a)(2)(C).

would necessarily undermine the validity of his reincarceration, a part of his criminal sentence, his claims are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). We therefore affirm the dismissal of his complaint.

I. Background

Ortega was convicted in Cook County in 2012 of possession, reproduction, and selling of child pornography. He was sentenced to four years' imprisonment, with a requirement that he serve a minimum of 50 percent of that term, and three years to life of mandatory supervised release (MSR). He began serving his MSR in late 2013, subject to conditions on his host site and limitations on his conduct.

Authorities approved Ortega's parents' residence as a new host site in April 2014. While Ortega lived there, his father and his parole agent, Joseph Blaha, had several arguments about Ortega's restrictions. In August 2015, Blaha and other agents searched the home and found items Ortega was prohibited from possessing or using, including sexually explicit DVDs, devices with internet access, a Wi-Fi connection, and alcohol. At Blaha's request, another officer, Enate Akpore, issued a parole violation warrant based on two alleged violations: the possession of contraband and disobeying his parole agent. Ortega was taken back into custody. Blaha's violation report recommended that Ortega's parents' home be declared off-limits as a future host site because it was dangerous for agents and not conducive to Ortega's rehabilitation.

Ortega waived a preliminary hearing, and his first parole violation hearing was held in March 2016; Ortega remained incarcerated in the meantime. At the hearing, Ortega asked to be declared a violator because he believed that this meant he could serve his total prison sentence and be discharged without any MSR time. Based on a report from Ernest Vanzant, the records office supervisor, that field services agents were searching for a proper host site for Ortega, the parole board declined to find him a violator; it ordered another six-month continuance to allow that investigation. Ortega then re-submitted his parents' home as a host site. This request was denied, and he did not submit an alternative address or request release to a halfway house.

At the next hearing, Ortega related that he did not have a host site and again requested to be adjudicated a violator. This time, the parole board did so, finding him to be in violation of the requirement to have a suitable living situation. The board also informed Ortega that his MSR term of three years to life had not been discharged, and he needed a proper host site. Ortega again submitted his parents' address, but the request was denied based on Blaha's report about the home's unsatisfactory conditions.

Ortega believed (incorrectly) that he had to be released in August 2017, and so he re-submitted his parents' address as a host site. It was again denied, and he again received a parole violation warrant based on the violation of his MSR (for lack of a suitable host site).

A few months later, Ortega had another hearing. The board found him guilty of the violation but told him it would consider placing him back on MSR if he submitted a suitable host site. After the hearing, he inquired as to why his parents' home had been rejected, and he was referred to the 2014 paperwork in which Blaha had recommended against it. Ortega did not ask about the possibility of going to a halfway house, and at no time after he was first reincarcerated did he submit any other addresses for review.

Ortega filed a prisoner grievance in 2019 about the board's failure to approve his parents' address as a host site. He was released to their home a few days after submitting this grievance. According to the Illinois Department of Corrections, his sentence has not been discharged, and he remains on supervision.¹

Ortega then filed this complaint in 2020, suing various officials involved in his MSR revocation and subsequent hearings. He named Blaha, Akpore, and Vanzant, as well as Tanya Ford (a field services representative), and Joseph Pate (the supervising agent who signed his 2017 violation warrant), among other defendants. Ortega alleged that they illegitimately had continued to incarcerate him even though he had a viable host site, in violation of his Eighth Amendment right to be free from cruel and unusual punishment and his Fourteenth Amendment right to due process. 42 U.S.C. § 1983. And he claimed that Akpore and Pate violated the Fourth Amendment when they issued parole violation warrants for him. At screening under 28 U.S.C. § 1915(e)(2), the district court allowed these claims to proceed against Blaha, Ford, Akpore, Pate, and Vanzant, along with state-law claims of assault, false imprisonment, and conspiracy, and violations of the Illinois Constitution. It dismissed claims against the other IDOC officials for various reasons.

After discovery, the defendants filed a motion for summary judgment, arguing among other things that the *Heck* doctrine barred Ortega's claims. The district court agreed that *Heck* barred the § 1983 claims and entered summary judgment, finding that

¹ Ill. Dep't of Corr., *Individual in Custody Search*, <https://idoc.illinois.gov/offender/inmatesearch.html> (last visited Apr. 4, 2024). His IDOC number is M27539. Although Ortega remains in a form of custody, his challenge here relates only to his imprisonment from August 2015 to August 2019.

Ortega's claims necessarily questioned the validity of his incarceration for violating his mandatory supervised release, a part of his criminal sentence. The district court then declined to exercise supplemental jurisdiction over the state-law claims.

II. Discussion

On appeal, Ortega challenges the district court's conclusion that *Heck* bars his claims, arguing that a favorable ruling would not alter his conviction or sentence—namely, the now-concluded period of reincarceration that he contends was unlawful—because he simply seeks damages. We review de novo a decision that *Heck* precludes review of federal constitutional claims. *Tolliver v. City of Chicago*, 820 F.3d 237, 241 (7th Cir. 2016).

The *Heck* bar applies to Ortega's § 1983 claims. If a judgment for the plaintiff would “necessarily imply the invalidity of [the plaintiff's] conviction or sentence,” it is barred unless the conviction or sentence has already been invalidated. *Heck*, 512 U.S. at 487. This covers all aspects of the sentence, including reimprisonment upon the revocation of mandatory supervised release. *See Wilkinson v. Dotson*, 544 U.S. 74, 81–82 (2005); *United States v. Leiva*, 821 F.3d 808, 821 (7th Cir. 2016). Further, the applicability of *Heck* does not depend on the form of relief the plaintiff seeks under § 1983. *Haywood v. Hathaway*, 842 F.3d 1026, 1028 (7th Cir. 2016) (rejecting argument that seeking only damages allows § 1983 claim to proceed despite *Heck*).

Here, Ortega argues that defendants unlawfully prolonged his reincarceration by preventing him from using a valid host site, his parents' home. Success on this claim would mean that he was imprisoned for too long. But a federal writ of habeas corpus or its state equivalent is the sole avenue for challenging the fact or duration of criminal detention while it is ongoing. *See Morgan v. Schott*, 914 F.3d 1115, 1119 (7th Cir. 2019). Now, Ortega is not imprisoned and cannot use habeas or its equivalents, but *Heck* does “not lose its vitality” because he has been released. *Savory v. Cannon*, 947 F.3d 409, 424 (7th Cir. 2020). Ortega can sue under § 1983 only if the detention is invalidated through a process such as a state appeal or executive clemency. *See Morgan*, 914 F.3d at 1119.

Contrary to Ortega's argument, our decision in *Courtney v. Butler*, 66 F.4th 1043 (7th Cir. 2023), does not require a different result. In *Courtney*, we concluded that *Heck* did not bar claims challenging the defendants' failure to investigate possible host sites and respond to Courtney's grievances and communications on the matter, because winning on those claims would not necessarily mean that revoking Courtney's mandatory supervised release was wrong to begin with. *Id.* at 1051–53. We reasoned

that, even if the defendants had mishandled the site application process in the ways Courtney alleged, no host site was ever approved—so Courtney was not challenging the foundation of the revocation decision. *Id.* at 1053. Also, Courtney’s release was revoked “at the door” when his prison sentence ended solely because of the defendants’ inaction on his host-site applications; there was no evidence that Courtney actually lacked a proper host site or violated any other MSR conditions. *Id.* at 1046, 1052. That was a critical factor in determining that Courtney’s claims could proceed. *Id.* at 1052–53.

Here, in contrast, Ortega has not shown that the defendants’ actions were the exclusive reason for his continued incarceration. He lived in a home with prohibited items and was taken into custody; he was later adjudicated to be in violation of the host-site condition. Further, the defendants addressed (and denied) each request to approve his parents’ residence; they did not ignore them. That left Ortega with the option of seeking approval of another site, but he never did. Under these circumstances, a federal court could not decide that he is entitled to damages for prolonged incarceration without calling into question the validity of his imprisonment after his arrest for suspected MSR violations.

Last, we do not understand Ortega to develop any argument about the district court’s decision to relinquish supplemental jurisdiction over the state-law claims, but we note this is presumptively the right decision when all federal claims are resolved short of trial. 28 U.S.C. § 1367(c)(3); see *Coleman v. City of Peoria*, 925 F.3d 336, 352 (7th Cir. 2019). A state court is the appropriate venue for litigating whether prison officials properly executed the state laws governing mandatory supervised release. See *Wells v. Caudill*, 967 F.3d 598, 602 (7th Cir. 2020). But the defendants have raised other plausible affirmative defenses such as res judicata and the statute of limitations, the merits of which we need not resolve, which might be independent barriers to further litigation in state court.

AFFIRMED