

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-10227
Summary Calendar

HARUN NASSOR TALIB,

Plaintiff-Appellant,

versus

MARK A. VERNON, #6528; JEFFREY L. BURGE, #6026;
LITTLE, Officer, #5337; SMITH, Officer, #6039
JUNGER, Officer, #6388,

Defendants-Appellees.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:98-CV-71-P
- - - - -

July 16, 1998

Before JOLLY, BENAVIDES and PARKER, Circuit Judges.

PER CURIAM:*

Harun Nassor Talib, Texas state prisoner #97089058, appeals the dismissal of his civil rights complaint as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i). The district court held that his claims were premature under Heck v. Humphrey, 512 U.S. 477, 486-87 (1994).

"[A] claim of unlawful arrest, standing alone, does not necessarily implicate the validity of a criminal prosecution

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

following the arrest." Mackey v. Dickson, 47 F.3d 744, 746 (5th Cir. 1995). See Montoya v. Scott, 65 F.3d 405, 421 (5th Cir. 1995) (noting the "established rule that illegal arrest or detention does not void a subsequent conviction"). Talib's complaint challenges the legality of his arrest. There is no indication in the record that any evidence served as a result of that arrest is being used for a criminal prosecution. See Mackey, 47 F.3d at 746. We accordingly VACATE the district court's dismissal invoking Heck and REMAND for further proceedings.

VACATED AND REMANDED.