

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40278

Summary Calendar

EDWARD ALLEN MOORE,

Plaintiff-Appellant,

versus

JAMES A. COLLINS, Director,
Texas Department of Criminal
Justice, Institutional Division
et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
(6:91-CV-138)

(November 8, 1994)

Before GARWOOD, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

Edward Allen Moore brings this § 1983 lawsuit challenging the actions of officials of the Texas Department of Criminal Justice - Institutional Division (TDCJ-ID) in connection with a detainer lodged against Moore by the police department of Clayton, Missouri. We vacate the district court's judgment against Moore and remand so

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

that the district court may determine whether Moore's claims are ripe for review under Heck v. Humphrey, 114 S. Ct. 2364 (1994).

I.

Edward Allen Moore was incarcerated in a Texas state prison when he received notice that the police department in Clayton, Missouri had lodged a detainer against him. Moore asserts that on September 7, 1990, he requested final disposition of the detainer pursuant to § III(a) of the Interstate Agreement on Detainers Act (IADA). Moore contends that TDCJ-ID officials did not forward his request to Missouri officials in a timely manner, because Missouri officials did not receive it until November 28, 1990. Moore also asserts that prison officials denied him access to the courts, because they refused to provide him with the legal materials necessary to defend against the Missouri charges.

The TDCJ-ID officials filed a motion for summary judgment, which the district court granted. Moore filed a timely notice of appeal.

II.

In Heck v. Humphrey, 114 S. Ct. 2364 (1994), decided after the district court ruled on the summary judgment motion, the Supreme Court held that a claim alleging "harm caused by actions whose unlawfulness would render a conviction or sentence invalid" cannot be brought under § 1983 unless that "conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such

determination, or called into question by a federal court's issuance of a writ of habeas corpus" Id. at 2372.

All of Moore's assertions ultimately concern the charges that he faced in Missouri. Moore's claim that prison officials denied him access to legal materials could, if successful, imply the invalidity of the Missouri conviction, because it is based solely on Moore's alleged inability to answer the Missouri charges. Moore's claim that prison officials delayed sending his request for final disposition also could, if successful, imply the invalidity of the Missouri conviction. See, e.g., Gibson v. Klevenhagen, 777 F.2d 1056 (5th Cir. 1985). Under the IADA, charges must be disposed of within 180 days of the detainee's request for final disposition. IADA § III(a). Moore argues that because prison officials delayed mailing his request, he lost his right to a final disposition of the Missouri charges within 180 days of September 21, 1990 and his right to seek dismissal of the charges on March 21, 1991. See id. Instead, Missouri officials did not receive Moore's request for final disposition until November 28, 1990, which gave them until May 28, 1991 to try Moore on the charges. On April 9, 1991, Moore was released to Missouri officials to face trial on April 16, 1991.

We are unable to determine whether Heck bars this action, because the record does not reflect whether Moore was convicted in Missouri. Without this information, it cannot be determined whether a judgment in Moore's favor would imply the invalidity of a conviction in Missouri. Further, even if it were certain that

Moore had been convicted, it cannot be determined from the record whether Moore has pursued and obtained the habeas or other relief needed to maintain his § 1983 action under Heck.

We, therefore, vacate the district court's grant of summary judgment and remand for a determination of whether a judgment in Moore's favor on these claims would necessarily imply the invalidity of his conviction, if any, in Missouri. If so, Moore's claims are not cognizable under § 1983 at this time and should be dismissed on that basis, rather than on the merits.¹

VACATE AND REMAND.

¹ In dismissing this case, the district court incorrectly concluded that interpretation of the IADA is a matter of state law and that a violation of it is not actionable under § 1983. In fact, the IADA is a congressionally sanctioned compact that presents a question of federal law. Birdwell v. Skeen, 983 F.2d 1332, 1336 (5th Cir. 1993) (citing Cuyler v. Adams, 449 U.S. 433, 442 (1981)).