

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

JAMES B. WATTS, )  
)  
Plaintiff, )  
)  
v. ) Case No. 05-1333-WEB  
)  
CHASE COUNTY SHERIFF'S DEPARTMENT, )  
et al., )  
)  
Defendants. )  
\_\_\_\_\_)

**Memorandum and Order**

Plaintiff James B. Watts, acting pro se, initiated this action by filing a 158-page complaint against a multitude of defendants. The named defendants include (but are not limited to): the Chase County Sheriff, Sheriff's Department and Deputies; a Kansas Highway Patrol Trooper and Kansas Bureau of Investigation Special Agent; the Chase County Jail, Jailors and Administrator; the Chase County Attorney's Office, County Attorney, and Court Clerk; various state District Judges and Magistrate Judges; the Judges of the Kansas Court of Appeals and the Kansas Supreme Court who heard plaintiff's appeal in certain criminal proceedings; various attorneys and public defenders; the Kansas Parole Board and various Parole Officers; any persons who had contact with plaintiff through the Butler County counseling center; any television, radio or newspaper outlets that published anything about plaintiff's criminal proceedings; the Butler County Sheriff's Department, Sheriff, and numerous Deputies; the County Attorney and Assistants for Butler County; and "all of the citizens of any and or all of the municipalities, counties or districts ... of

any and or all of the states ... of the United States.” The body of the complaint contains various claims, all of which apparently derive from plaintiff’s conviction on criminal charges in cases arising in the district courts of the State of Kansas. Plaintiff’s convictions in these cases were upheld on direct review by the Kansas Court of Appeals. *See Watts v. State of Kansas*, 2005 WL 3030337 (Kan. App. Nov. 10, 2005) (summarizing history of proceedings). Plaintiff also petitioned for relief on collateral review, but his petition was likewise recently denied. *See id.*

The gravamen of plaintiff’s current complaint appears to be that he was a victim of malicious prosecution in several criminal proceedings in state court. He also complains that evidence against him in these proceedings was obtained illegally. Additionally, plaintiff has filed a “Motion for Preliminary Mandatory Injunctions” in which he says that he needs, among other things: the ability to serve the defendants with the complaint; the ability to hire legal assistants and a legal team, as well as expert witnesses from around the world; and the ability to pay for and possess and carry all arms of any or all types and to pay for a security team. What this amounts to, plaintiff alleges, is that “I require a large amount of money to be advanced to me and deducted from my money damages....”

Section 1915(e)(2) of Title 28, United States Code, provides in part that notwithstanding any filing fee that may have been paid, the court shall dismiss the action at any time if it determines that the action is frivolous, or that it fails to state a claim upon which relief can be granted, or if it seeks monetary relief against a defendant who is immune from such relief. After examining the complaint in this case, the court concludes that the action must be dismissed under these standards. An action is frivolous if “it lacks an arguable basis in either law or fact.” *Thompson v. Gibson*, 289 F.3d 1218, 1222 (10th Cir. 2002). Dismissal for failure to state a claim is appropriate if “it appears beyond doubt that the plaintiff can prove

no set of facts in support of his claim which would entitle him to relief.” *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957).

In order to recover damages for allegedly unconstitutional conviction or imprisonment, ... a § 1983 plaintiff must prove that the 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. *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). Plaintiff fails to allege any of the foregoing; in fact the record shows his convictions have recently been upheld. His allegations of malicious prosecution thus fail to state a claim upon which relief can be granted. As for the claims of unlawful search or arrest, plaintiff was afforded an opportunity to pursue such claims in the state criminal proceedings, but he was apparently unsuccessful. *See Watts v. State of Kansas*, 2005 WL 3030337 at \*1. The doctrine of res judicata would prevent plaintiff from seeking to re-litigate his allegations of unlawful search or seizure in this proceeding. *See Allen v. McCurry*, 449 U.S. 90 (1980). Finally, plaintiff has named as defendants a number of individuals who would be entitled to judicial or prosecutorial immunity insofar as many of his claims for damages are concerned. In sum, the court sees no possible grounds for relief in the complaint submitted. Accordingly, the court determines that the complaint must be dismissed pursuant to 28 U.S.C. § 1915.

*Conclusion.*

Plaintiff’s Motion for Preliminary Injunction (Doc. 2) and his Motion to Alter or Amend Causes of Action (Doc. 3 ) are DENIED. The court determines that the action is frivolous or fails to state a claim upon which relief may be granted. *See* 28 U.S.C. § 1915(e)(2). The court thus orders that the complaint be, and is hereby, dismissed. The clerk is directed to enter judgment accordingly.

IT IS SO ORDERED this 16<sup>th</sup> Day of November, 2005, at Wichita, Ks.

s/Wesley E. Brown

Wesley E. Brown

U.S. Senior District Judge