

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

JONATHAN LEVI MANGOLD,

Plaintiff,

v.

CASE NO. 18-3020-SAC

MIKE STONE, et al.,

Defendants.

MEMORANDUM AND ORDER

Plaintiff brings this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff is incarcerated at the Norton Correctional Facility in Norton, Kansas. The Court granted Plaintiff leave to proceed in forma pauperis. Plaintiff's allegations in his Complaint involve his state criminal proceedings. *See* Case Nos. 17-cr-124 and 17-cr-133 in Marion County District Court. Plaintiff sues the state court judge, the prosecuting attorney, Marion Police Department Officer Mike Stone, and the Marion Police Department Chief of Police.

On June 15, 2018, the Court entered a Memorandum and Order and Order to Show Cause (Doc. 4) ("MOSC"), directing Plaintiff to show good cause by July 6, 2018, why his Complaint should not be dismissed for the reasons stated in the MOSC. In the MOSC, the Court noted that: the Court may be prohibited from hearing Plaintiff's claims relating to his state criminal case under *Younger v. Harris*, 401 U.S. 37, 45 (1971), because Plaintiff's state court criminal proceedings are pending on appeal; if Plaintiff has been convicted and a judgment on Plaintiff's claim in this case would necessarily imply the invalidity of that conviction, the claim may be barred by *Heck v. Humphrey*, 512 U.S. 477, 487 (1994); to the extent Plaintiff challenges the

validity of his sentence or conviction, his federal claim must be presented in habeas corpus and a petition for habeas corpus is premature until Plaintiff has exhausted available state court remedies; Plaintiff's claim against the state court judge should be dismissed on the basis of judicial immunity; and Plaintiff's claims against Marion County Attorney Boehm fail on the ground of prosecutorial immunity.

Plaintiff has failed to respond within the allowed time and the Court finds that this matter should be dismissed for the reasons set forth in the MOSC.

IT IS THEREFORE ORDERED THAT this matter is **dismissed without prejudice.**

IT IS SO ORDERED.

Dated in Topeka, Kansas, on this 11th day of July, 2018.

s/ Sam A. Crow
Sam A. Crow
U.S. Senior District Judge