

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

WILLIAM C. CHEATHAM-BEY,

Plaintiff,

v.

CASE NO. 18-3032-SAC

MEGAN WATERS, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter is a civil rights action filed pursuant to 42 U.S.C. § 1983. By order dated April 17, 2018, the Court directed Plaintiff to show cause why his complaint should not be dismissed for failure to state a claim upon which relief may be granted. The Court found that Count I of Plaintiff's complaint was subject to dismissal because Plaintiff was attempting to bring a claim on behalf of another person. A § 1983 claim must be based on the violation of Plaintiff's personal rights and not the rights of someone else. *Archuleta v. McShan*, 897 F.2d 495, 497 (10th Cir. 1990). As for Count II of Plaintiff's complaint, the Court determined that Plaintiff's claim is barred by *Heck v. Humphrey* as an improper challenge to his probation revocation under the guise of a § 1983 action, unless Plaintiff could show the revocation has already been invalidated. *See Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994); *Crow v. Penry*, 102 F.3d 1086, 1087 (10th Cir. 1996). Before the Court is Plaintiff's response to the show cause order (Doc. 11) and a motion to attach exhibits to that response (Doc. 12). Plaintiff's motion is granted, and the exhibits have been considered by the Court.

In his response, Plaintiff makes several arguments why his probation should not have been revoked and arguments about defects in the process. However, Plaintiff does not address the *Heck* bar. As the Court explained in the order to show cause, until the revocation of his probation has been reversed on appeal or through a habeas corpus action, this civil rights lawsuit is premature and must be dismissed.

Plaintiff has not shown good cause why his complaint should not be dismissed. Count I of Plaintiff's complaint fails to state a claim on which relief may be granted and Count II is barred as premature under *Heck*. Therefore, the complaint must be dismissed under 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e).

IT IS THEREFORE ORDERED that Plaintiff's motion to supplement response to notice and order to show cause (Doc. 12) is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's complaint is dismissed without prejudice.

IT IS SO ORDERED.

DATED: This 12th day of June, 2018, at Topeka, Kansas.

s/ Sam A. Crow _____
SAM A. CROW
U.S. Senior District Judge