

N.D.N.Y.
10-cv-790
Hurd, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 21st day of December, two thousand ten,

Present:

Pierre N. Leval,
Guido Calabresi,
Gerard E. Lynch,
Circuit Judges.

Injah Tafari,

Petitioner-Appellant,

v.

10-2962-pr

David A. Rock,

Respondent-Appellee.

Appellant, *pro se*, moves for a certificate of appealability, leave to proceed *in forma pauperis*, and appointment of counsel. Upon due consideration, it is hereby ORDERED that the motions for a certificate of appealability and leave to proceed *in forma pauperis* are GRANTED. It is further ORDERED that the judgment of the district court is VACATED and the case is REMANDED for further proceedings consistent with this order.

On remand, the district court should address, with specificity, the constitutional claims raised in Appellant's instant 28 U.S.C. § 2254 petition, with citations to the record and applicable case law. *See Miranda v. Bennett*, 322 F.3d 171 (2d Cir. 2003); *Gandarilla v. Artuz*, 322 F.3d 182 (2d Cir. 2003). We cannot presently discern the basis for the district court's judgment, insofar as: (1) the district court did not address Appellant's claim regarding the March 30, 2006 misbehavior report, which had not been raised in the previous related proceedings; and (2) although the district court referred to the fact that certain claims had been decided on the merits in Appellant's 42 U.S.C.

§ 1983 action, it is not clear whether the district court found the related § 2254 claims to be barred by the doctrines of claim preclusion or issue preclusion, or on some other basis. Additionally, to the extent that the district court's reasoning with respect to the March 1 and March 2, 2005 misbehavior reports can be deduced, it appears that the judgment was based on an erroneous interpretation of *Heck v. Humphrey*, 512 U.S. 477 (1994). That decision limits the availability of § 1983 relief where an action challenges the validity of a conviction, and does not bar claims from being brought on habeas review. Thus, the dismissal of a § 1983 claim pursuant to *Heck* does not warrant the dismissal of a later § 2254 claim with the same factual basis. Finally, to the extent that such distinction is relevant, the district court should consider whether Appellant's claims should be liberally construed as relating to the loss of good-time credits, given that Appellant was clearly challenging the validity of the disciplinary determinations as a whole, and that the record of the § 1983 action made clear that certain determinations had resulted in a loss of good time credits. *See* N.D.N.Y. Dkt. No. 07-cv-654 at 11/13/08 Entry.

We note, however, that the district court acted within its discretion in dismissing Appellant's claim regarding the December 17, 2005 misbehavior report, which was duplicative of a claim raised in his earlier, April 2010 § 2254 petition. *See* N.D.N.Y. Dkt. No. 10-cv-505 at 4/30/10 Entry; *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138-39 (2d Cir. 2000) ("As part of its general power to administer its docket, a district court may stay or dismiss a suit that is duplicative of another federal court suit.").

Finally, it is ORDERED that Appellant's motion for appointment of counsel is DENIED as moot.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk



The image shows a handwritten signature in cursive that reads "Catherine O'Hagan Wolfe". Overlaid on the signature is a circular seal. The seal contains the text "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom. There are small stars on either side of the central text.