

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA

Antonio Francisco Mika’ele Hawelu v. Brian Hibbs

Hawelu v. Hibbs · No. 4:25-cv-00022-SLG · Decided June 11, 2026

SUMMARY

The United States District Court for the District of Alaska denies the plaintiff’s request to continue a stay, lifts the stay, and requires him to file either a First Amended Complaint or a notice of voluntary dismissal. The order directs the plaintiff to provide factual and state-court-record support explaining why his 42 U.S.C. § 1983 excessive-force claim is not barred by Heck v. Humphrey in light of his Alaska convictions for resisting arrest and harming a police dog. The court allows 60 days from the date of the order for the plaintiff to act.

CASE DETAILS

COURT	United States District Court for the District of Alaska
WRITING FOR THE COURT	Sharon L. Gleason
JURISDICTION	United States District Court for the District of Alaska
DECIDED	June 11, 2026
DOCKET	4:25-cv-00022-SLG
DISPOSITION	other
PROCEDURAL POSTURE	A self-represented prisoner brought a 42 U.S.C. § 1983 excessive-force action against a police officer. The court had stayed the case pending resolution of the plaintiff's state criminal proceedings. After the plaintiff reported his state convictions and pending appeals, he moved to continue the stay; the court denied the motion, lifted the stay, and ordered him either to file a first amended complaint addressing potential Heck v. Humphrey deficiencies or voluntarily dismiss the case.
STANDARD OF REVIEW	The court applied the Heck v. Humphrey collateral-bar standard, asking whether success on the § 1983 claim would necessarily imply the invalidity of the criminal conviction. For a jury conviction, the court must examine the criminal record, including jury instructions and verdict forms, to determine what facts the jury necessarily found.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

section 1983 prisoners rights pleadings civil procedure

PRACTICE AREAS

civil rights civil procedure criminal procedure prisoner litigation

QUESTIONS PRESENTED

1. Whether the plaintiff's state conviction and pending criminal appeal required the federal court to continue staying the § 1983 action.
2. Whether the existing complaint provided sufficient factual and state-record context to determine whether the plaintiff's excessive-force claim was barred by Heck v. Humphrey.
3. What information the plaintiff was required to provide in an amended complaint to permit screening of the potential Heck bar.

HOLDINGS

1. The plaintiff's conviction eliminated the need for a continued stay; the possibility of a future retrial or dismissal based on pending appeals was too contingent to justify further delaying the federal litigation.
2. The court could not determine whether the excessive-force claim was Heck-barred because the complaint did not identify the specific conduct necessarily found by the jury or establish the chronological relationship between that conduct and the alleged force.
3. An Alaska conviction for resisting arrest under § 11.56.700(a)(1) does not necessarily establish the lawfulness of the officers' actions throughout the entire encounter, because lawfulness of the arrest is not an element the State must prove. An excessive-force claim may proceed under Heck if the alleged force is factually separable from the conduct underlying the conviction, but it is barred if the force was inseparable from the resistance found by the jury.

KEY QUOTATIONS

“When applying the Heck bar, courts ask whether success on a Section 1983 claim would “necessarily imply the invalidity” of the plaintiff’s criminal conviction.”

“If the entire incident is unquestionably part of the actions that formed the basis of Plaintiff’s conviction, or if the alleged excessive force actions cannot be separated from Plaintiff’s resistance to the officer attempting to arrest him, Plaintiff’s claim is barred by Heck.”

FACTUAL BACKGROUND

The plaintiff was convicted after a state jury trial of resisting arrest under Alaska Statute § 11.56.700(a)(1) and harming a police dog under Alaska Statute § 11.56.710. His federal complaint alleges excessive force during an encounter involving conduct such as fleeing by car, running into a field, refusing to exit a vehicle, a physical altercation, canine deployment and biting, and possible taser use. The federal court could not determine from the

existing complaint whether the alleged force occurred before, during, or after the conduct underlying the convictions, or whether the force was inseparable from the resistance found by the state jury.

PROCEDURAL HISTORY

The court issued a screening order on November 10, 2025, and stayed the federal case while the plaintiff’s state criminal proceedings were pending. The plaintiff was convicted after a jury trial on misdemeanor charges of resisting arrest and harming a police dog, then reported the convictions and sought either immediate continuation of his civil claims or a further stay pending his state appeals. The court denied a further stay, required a more detailed amended complaint and relevant state-court records, and stated that any amended complaint would be screened before service.

DISPOSITION

other

CASES CITED

- Heck v. Humphrey
- Beets v. County of Los Angeles, 669 F.3d 1038 (9th Cir. 2012)
- Hooper v. County of San Diego, 629 F.3d 1127, 1134 (9th Cir. 2011)
- Lemos v. Cnty. of Sonoma, 40 F.4th 1002, 1006 (9th Cir. 2022)
- Schlosser v. State, Case No. 4:25-cv-00022-SLG
- Smith v. City of Hemet, 394 F.3d 689, 695 (9th Cir. 2005)
- Bates v. Rezentes, 731 F. Supp. 3d 1119 (2024)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA ANTONIO FRANCISCO MIKA’ELE HAWELU, Plaintiff, Case No. 4:25-cv-00022-SLG v. BRIAN HIBBS, Defendant. ORDER LIFTING STAY & ORDER TO FILE FIRST AMENDED COMPLAINT On November 10, 2025, the Court issued a Screening Order and stayed this case filed by self-represented prisoner Antonio Francisco Mika’ele Hawelu (“Plaintiff”) pending the resolution of his then-pending state criminal proceedings.¹ On February 10, 2026, Plaintiff filed a motion described as a “notice of continuance.”² In accordance with the Screening Order, Plaintiff notified the Court that he was convicted in state court on two misdemeanor charges on January 7, 2026 in Case No. 4FA-24-01233CR.³ Yet Plaintiff contends that because he has appealed his conviction and is seeking to have the jury’s determination reversed, his state criminal proceedings are not concluded.⁴ In his motion, Plaintiff requests that the Court determine whether his civil claims can proceed immediately despite his conviction.

If the Court determines his 1 Docket 6. 2 Docket 7. 3 Docket 7. 4 Docket 7. See also Hawelu v. State, Case Nos. A14921, A14991. claims are barred by Heck v. Humphrey, Plaintiff requests the

Court stay this case until his state court appeal concerning his criminal conviction is resolved.⁵ Contrary to Plaintiff's assertion, his state court conviction eliminates the need for a continued stay in these federal civil proceedings.

The possibility of a future retrial or dismissal remains contingent upon the uncertain success of his pending state court criminal appeals and does not warrant further delaying this litigation. Accordingly, Plaintiff's motion to further extend the stay in this case is DENIED; the Clerk is ordered to LIFT THE STAY in this case. Plaintiff contends that his excessive force claim against AST Hibbs is not barred by Heck v. Humphrey even if his pending criminal appeal is ultimately decided against him.⁶ However, Plaintiff does not provide the Court with the necessary facts regarding the state court proceedings or the incident to evaluate the Heck doctrine, such as the specific conduct that formed the basis for each conviction and the timing of the alleged force relative to the facts underlying each count of conviction.

Plaintiff bears the burden to provide sufficient factual context to show that his claims are not Heck-barred. Accordingly, within 30 days of the date of this order, Plaintiff must file an amended complaint that expressly sets forth: - What specific facts the jury necessarily found to support his conviction 5 Docket 7. 6 Docket 7. Case No. 4:25-cv-00022-SLG, Hawelu v. Hibbs for resisting arrest and his conviction for harming a police dog; and - Why those specific factual findings do not pose a Heck bar to his excessive force claim.

DISCUSSION When applying the Heck bar, courts ask whether success on a Section 1983 claim would "necessarily imply the invalidity" of the plaintiff's criminal conviction.⁷ Excessive force claims may survive Heck when the elements of the offense of conviction are not inconsistent with a finding that officers used excessive force on the arrestee.⁸ Plaintiff states that he was convicted on one count of resisting arrest in violation of Alaska Statute § 11.56.700(a)(1) and one count of harming a police dog in violation of Alaska Statute § 11.56.710.⁹ According to the publicly available state court docket records,¹⁰ Plaintiff was convicted in state court following a jury trial.¹¹ When a conviction results from a jury verdict, to apply Heck, a court must look at the record of the criminal case, including the jury instructions to determine which facts the jury necessarily found.¹² 7 Beets v. County of Los Angeles, 669 F.3d 1038 (2012).

⁸ See, e.g., Hooper v. County of San Diego, 629 F.3d 1127, 1134 (9th Cir. 2011) ("A conviction under California Penal Code § 148(a)(1) does not bar a § 1983 claim for excessive force under Heck when the conviction and the § 1983 claim are based on different actions during 'one continuous transaction.'"). ⁹ Docket 7 at 3. ¹⁰ Pursuant to Rule 201 of the Federal Rules of Evidence, the Court takes judicial notice of the Courtview records of the Alaska Court System.

Publicly available records of the Alaska Trial Courts may be accessed online at <https://courts.alaska.gov/main/search-cases.htm>. ¹¹ State of Alaska vs. Hawelu, Antonio Francisco Mika, Case No. 4FA-23-01885CR (Disposition 01/07/2026: Guilty After Trial). ¹² Lemos v. Cnty.

of Sonoma, 40 F.4th 1002, 1006 (9th Cir. 2022). See also *Schlosser v. State*, Case No. 4:25-cv-00022-SLG, *Hawelu v. Hibbs* Under Alaska law, the lawfulness of the arrest is not an element of resisting arrest under § 11.56.700(a)(1) that the State must prove.¹³ Accordingly, under Alaska law, a guilty verdict for resisting arrest does not “necessarily determine[] the lawfulness of the officers’ actions throughout the whole course of the defendant’s conduct,” as it may in other states.¹⁴ Alaska law does, however, provide a justification defense under AS § 11.81.400 that a criminal defendant may raise.¹⁵ Additionally, if the alleged excessive force occurred before or after the acts that form the basis of the resisting arrest conviction, even if part of one continuous transaction, the Section 1983 claim doesn’t necessarily imply the invalidity of the criminal conviction.¹⁶ Here, Plaintiff’s Complaint alleges multiple actions that could have formed the basis for the convictions (such as fleeing by car, running into a field, and refusing to get out of the car), and it is unclear whether the alleged excessive force 372 P.3d 272, 277 (Alaska Ct.

App. 2016) (noting that the jury instruction on the elements of resisting arrest informed the jurors that a person could not use force to resist an arrest unless the officer making the arrest used excessive force). ¹³ This statute reads, in pertinent part: “A person may not use force to resist personal arrest or interfere with the arrest of another by a peace officer..., whether the arrest is lawful or unlawful, unless... the force used by the peace officer exceeds that allowed by AS 11.81.370.” ¹⁴ See, e.g., *Smith v. City of Hemet*, 394 F.3d 689, 695 (9th Cir.

2005) (analyzing the Heck bar for a resisting-arrest conviction under California Penal Code § 148(a)). ¹⁵ Alaska Stat. § 11.81.400(a) (providing that “[a] person may not use force to resist personal arrest or interfere with the arrest of another by a peace officer" unless "the force used by the peace officer exceeds that allowed under AS 11.81.370"). ¹⁶ See, e.g., *Hooper v. County of San Diego*, 629 F.3d 1127, 1134 (9th Cir.

2011) (“conviction under California Penal Code § 148(a)(1) does not bar a § 1983 claim for excessive force under Heck when the conviction and the § 1983 claim are based on different actions during ‘one continuous transaction.’ ”). Case No. 4:25-cv-00022-SLG, *Hawelu v. Hibbs* by the officer that Plaintiff is alleging occurred before, during, or after the conduct that formed the basis of Plaintiff’s convictions.¹⁷ It is also unclear whether Plaintiff’s defense in the state case included an argument that the dog bite or other excessive force prevented him from complying with the officer’s instructions.

If the entire incident is unquestionably part of the actions that formed the basis of Plaintiff’s conviction, or if the alleged excessive force actions cannot be separated from Plaintiff’s resistance to the officer attempting to arrest him, Plaintiff’s claim is barred by Heck. But without a clear, chronological account and relevant portions of the state court record—such as jury instructions, verdict forms, and trial transcript excerpts addressing the physical altercation, canine deployment

and bite duration, and any taser use—the Court cannot assess whether a judgment for Plaintiff in this case would conflict with the jury’s findings in the state case.

Plaintiff will be permitted to file a First Amended Complaint to attempt to remedy these deficiencies. Because Plaintiff bears the burden to provide sufficient factual context to show that his claims are not Heck-barred, Plaintiff must include a detailed statement clarifying the exact chronological order of his conduct versus the officers' actions. Plaintiff should also file with his First Amended Complaint the relevant portions of the state court record, including: 1.

The jury instructions and verdict forms from his 17 Bates v. Rezendes, 731 F.Supp.3d 1119 (2024). Case No. 4:25-cv-00022-SLG, Hawelu v. Hibbs criminal trial. 2. Relevant portions of the trial transcript detailing the testimony or evidence regarding the physical altercation and the arrest. 3. Relevant judicial orders from the state criminal proceedings.

In addition to attaching these state court documents, all this information must still be included in the First Amended Complaint itself, and Plaintiff must specifically identify in the amended complaint the page number of the document that supports each of his contentions. If Plaintiff files an amended complaint, the Court will screen the amended complaint to determine whether it is subject to dismissal or whether that complaint may proceed to the next stage of litigation.

Should the amended complaint proceed beyond the screening stage, the Court will order service of that complaint on Defendant. Plaintiff must not attempt to serve Defendant Hibbs until the Court so orders. IT IS THEREFORE ORDERED: 1. Plaintiff’s motion to stay this case at Docket 7 is DENIED. 2.

The Clerk shall LIFT THE STAY in this case. 3. Plaintiff is accorded 60 days from the date of this order to file either: Case No. 4:25-cv-00022-SLG, Hawelu v. Hibbs a. First Amended Complaint, in which Plaintiff revises his complaint to address the deficiencies identified in this order. An amended complaint should be on the Court’s form, which is being provided to Plaintiff with this order; OR b. Notice of Voluntary Dismissal, in which Plaintiff elects to close and end this case.

4. With this order, the Clerk is directed to send: (1) form PS01, with “FIRST AMENDED” written above the title “Prisoner’s Complaint Under the Civil Rights Act 42 U.S.C. § 1983”; (2) form PS09, Notice of Voluntary Dismissal; and (3) form PS23, Notice of Change of Address. DATED this 11th day of June, 2026, at Anchorage, Alaska. /s/ Sharon L. Gleason SHARON L. GLEASON UNITED STATES DISTRICT JUDGE Case No. 4:25-cv-00022-SLG, Hawelu v. Hibbs