

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 26 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

SHANNON LEE STARR,

Plaintiff-Appellant,

v.

OAKLAND POLICE DEPARTMENT, et
al.,

Defendants-Appellees.

No. 15-16447

D.C. No. 5:15-cv-00806-RMW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Ronald M. Whyte, District Judge, Presiding

Submitted January 18, 2017**

Before: TROTT, TASHIMA, and CALLAHAN, Circuit Judges.

Shannon Lee Starr appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging deprivation of the right to a fair trial. We have jurisdiction under 28 U.S.C. § 1291. We review de novo.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Hamilton v. Brown, 630 F.3d 889, 892 (9th Cir. 2011) (dismissal for failure to state a claim under 28 U.S.C. § 1915A); *Whitaker v. Garcetti*, 486 F.3d 572, 579 (9th Cir. 2007) (dismissal under *Heck v. Humphrey*, 512 U.S. 477 (1994)). We affirm.

The district court properly dismissed Starr’s action as *Heck*-barred because success on Starr’s claims would necessarily imply the invalidity of his conviction or sentence, and Starr failed to allege that his conviction had been invalidated. *See Heck*, 512 U.S. at 486-87 (if “a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence . . . the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated”).

AFFIRMED.