

He claims that he was convicted as a result of violations of his constitutional rights for which he seeks damages under § 1983.

In the ruling dismissing the amended complaint, the Court explained that nearly all of plaintiff's § 1983 claims, if successful, would necessarily imply the invalidity of his convictions and thus were barred by Heck v. Humphrey, 512 U.S. 477, 486-87 (1994). Plaintiff was given an opportunity to file a second amended complaint limited to a § 1983 claim that his home was searched in violation of the Fourth Amendment. Under Heck, a suit for damages caused by an allegedly unconstitutional search may be maintained even if the search produced evidence used to obtain a still-outstanding conviction. See id. at 487 n.7. To recover damages in such a case, however, "the § 1983 plaintiff must prove not only that the search was unlawful, but that it caused him actual, compensable injury . . . which . . . does not encompass the 'injury' of being convicted and imprisoned (until his conviction has been overturned)." Id.

In the second amended complaint, plaintiff alleges that he was arrested in his home pursuant to an arrest warrant for him and a search warrant for his home. He contends that both warrants were invalid. However, the validity of the arrest warrant is not open to challenge here due to the plaintiff's still-outstanding conviction for assault. See Cameron v.

Fogarty, 806 F.2d 380, 388-89 (2d Cir. 1986) (section 1983 claim for false arrest is precluded by plaintiff's conviction for offense for which he was arrested); Roundtree v. City of New York, 778 F. Supp. 614, 619 (E.D.N.Y. 1991) (Cameron rule applies to conviction based on guilty plea). Because the arrest warrant must be deemed valid for present purposes, plaintiff cannot prove that the officers' entry into the home was unlawful. See Payton v. New York, 445 U.S. 573, 602-03 (1980) (arrest warrant authorizes officers to enter dwelling where suspect resides in order to make arrest). The assault conviction also precludes a § 1983 claim based on a search conducted incident to the arrest. See Roundtree, 778 F. Supp. at 620.

The second amended complaint does not allege that the search of plaintiff's home exceeded the scope of a search incident to arrest. Nor does it allege any injury caused by the search itself. Instead, the injury plaintiff alleges is his wrongful conviction and imprisonment. As discussed above, plaintiff's still-outstanding assault conviction prevents him from recovering for any such injury. Accordingly, the second amended complaint fails to state a claim on which relief may be granted. See Marshall v. City of New York, No. 10 Civ. 3137(PKC), 2010 WL 4739810, at *2 (S.D.N.Y. Nov. 17, 2010).

