

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6193

JEFFREY COHEN,

Plaintiff - Appellant,

v.

ROD ROSENSTEIN, US Attorney; HARRY GRUBER, Asst. US
Attorney; JOYCE MCDONALD, Asst. US Attorney,

Defendants - Appellees.

Appeal from the United States District Court for the District of
Maryland, at Baltimore. William D. Quarles, Jr., District
Judge. (1:15-cv-00263-WDQ)

Submitted: June 11, 2015

Decided: June 25, 2015

Before NIEMEYER and HARRIS, Circuit Judges, and DAVIS, Senior
Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

Jeffrey Cohen, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jeffrey Brian Cohen appeals the district court's order dismissing without prejudice,* under 28 U.S.C. §§ 1915, 1915A (2012), his suit against federal prosecutors brought pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

The district court determined that Cohen's complaint raised issues concerning the validity of the Government's ongoing criminal case against Cohen and, thus, should be dismissed under the principles of Heck v. Humphrey, 512 U.S. 477 (1994), and its progeny. Because no final judgment of conviction has yet been entered, we conclude that the district court's dismissal under Heck is premature. See Wallace v. Kato, 549 U.S. 384, 393-94 (2007).

Accordingly, we vacate the district court's order and remand for further proceedings in light of Wallace. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

VACATED AND REMANDED

* We have jurisdiction because Cohen cannot cure the defect identified in his complaint by mere amendment. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993).