

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

APR 21 2009

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

Cornell Sanders,

Plaintiff,

v.

United States Dep't of Justice *et al.*,

Defendants.

Civil Action No. 09 0721

MEMORANDUM OPINION

Plaintiff, a federal prisoner incarcerated at the United States Penitentiary in Coleman, Florida, has filed a *pro se* complaint and applied to proceed *in forma pauperis*. The application will be granted and the complaint dismissed for lack of jurisdiction.

Plaintiff's complaint states that it is a suit brought under the Freedom of Information Act, 5 U.S.C. § 552. Compl. at 1. The facts alleged and relief requested, however, make clear that this action is not an appeal from an agency determination of plaintiff's FOIA request. Rather, plaintiff seeks a determination by this court of the authenticity of the arrest warrant in his underlying criminal proceeding, *id.* at 3, which he suspects to be a later-manufactured forgery, *id.* at 3-4, and which has been produced to him, *id.* at 5. Plaintiff's interest in this information stems from his belief that the existence of a later-forged arrest warrant would be "relevant in proving . . . [the] absence of probable cause . . . [and] no jurisdiction to prosecute . . . and therefore [that] his confinement and conviction is contrary to the laws of the United States."¹ *Id.*

¹ To the extent that plaintiff seeks to collaterally attack his underlying criminal conviction, plaintiff's exclusive recourse lies with a motion made under 28 U.S.C. § 2255 submitted to the court that tried, convicted, and sentenced him. *Ojo v. Immigration & Naturalization Service*, 106 F.3d 680, 683 (5th Cir. 1997) (the sentencing court is the only court with jurisdiction to hear defendant's complaint regarding errors that occurred before or during sentencing).

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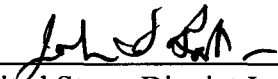
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The FOIA affords no private right of action for a forensic examination or determination of the authenticity of a document produced in response to a FOIA request. Therefore, this case will be dismissed for lack of subject matter jurisdiction.

A separate order accompanies this memorandum opinion.

Date:

Apr 7 8, 2009


United States District Judge