

**FILED**

**APR 29 2009**

**NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

SHAWN A. PHILLIPS,

Petitioner,

v.

UNITED STATES, *et al.*,

Respondents.

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Civil Action No.

**09 0773**

**MEMORANDUM OPINION**

This matter comes before the Court on petitioner's application to proceed *in forma pauperis* and *pro se* petition for a writ of habeas corpus.

Petitioner currently is serving terms of imprisonment imposed by the Superior Court of the District of Columbia and is to serve terms of supervised release following his release from the District of Columbia Central Detention Facility. He alleges that supervised release is not an authorized sentence and asks this Court to set it aside.

Petitioner's challenge to his sentence must be brought by motion in the Superior Court under D.C. Code § 23-110. In relevant part, D.C. Code § 23-110 provides:

[An] application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section shall not be entertained by . . . any Federal . . . court if it appears . . . that the Superior Court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

D.C. Code § 23-110(g). "Section 23-110 has been found to be adequate and effective because it is coextensive with habeas corpus." *Saleh v. Braxton*, 788 F. Supp. 1232 (D.D.C. 1992). It is

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settled that "a District of Columbia prisoner has no recourse to a federal judicial forum unless the local remedy is 'inadequate or ineffective to test the legality of his detention'" *Byrd v. Henderson*, 119 F.3d 34, 36-37 (D.C. Cir. 1997) (internal footnote omitted); *Garris v. Lindsay*, 794 F.2d 722, 726 (D.C. Cir.), *cert. denied*, 479 U.S. 993 (1986). Petitioner's lack of success in any previous attempts to collaterally attack his conviction or sentence by means of a motion under D.C. Code § 23-110(g) does not render this remedy inadequate or ineffective. *See Wilson v. Office of the Chairperson*, 892 F. Supp. 277, 280 (D.D.C. 1995).

Accordingly, the Court will dismiss the petition without prejudice. An Order consistent with this Memorandum Opinion will be issued separately on this date.

Date: *April 25, 2009*

  
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United States District Judge