

FILED

MAY 22 2008

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MICHAEL S. GORBEY,

Plaintiff,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

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Civil Action No. 08-0649

MEMORANDUM OPINION

This matter is before the Court on plaintiff's application to proceed *in forma pauperis* and *pro se* complaint. The application will be granted and the complaint will be dismissed.

Plaintiff's complaint recounts his contacts with the criminal justice system since his 1989 arrest in Culpeper, Virginia. It appears that plaintiff has been arrested and detained on various charges in Virginia and West Virginia, and now finds himself detained at the District of Columbia Jail. Plaintiff alleges that defendants are denying him "the right to live free within the USA [by] unduly convicting [him] of charges, violating [his] double jeopardy rights[,], depri[v]ing him and his famil[y] of liberty and property," subjecting him to unreasonable searches and seizures, and denying him due process. *See* Compl. at 7-8, 10. For these alleged violations of rights protected by the United States Constitution, plaintiff demands monetary damages. *See id.* at 10-11.

Because plaintiff's claim goes to the fact of his confinement, he cannot recover damages in this civil rights action under 42 U.S.C. § 1983 without showing that his confinement has been invalidated by "revers[al] on direct appeal, expunge[ment] by executive order, declar[ation of invalidity] by a state tribunal authorized to make such determination, or . . . a federal court's issuance of a writ of habeas corpus." *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994); *accord*

White v. Bowie, 194 F.3d 175 (D.C. Cir. 1999) (table). Plaintiff has not satisfied this prerequisite and therefore fails to state a claim under Section 1983. An Order consistent with this Memorandum Opinion will be issued separately on this date.


United States District Judge

DATE: 5/16/08