UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GREGORY DAVIS,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 08-1728 (UNA)
	:	
UNITED STATES OF AMERICA, *et al.*,	:	
	:	
Defendants.	:	

MEMORANDUM OPINION

This matter comes before the Court on plaintiff's application to proceed *in forma pauperis* and *pro se* complaint.

Relying on Rule 60(b) of the Federal Rules of Civil Procedure, plaintiff challenges his federal conviction on the ground that it was obtained by fraud rendering the judgment void. The pleading presents a collateral attack on his conviction and sentence which properly is raised "by motion pursuant to 28 U.S.C. § 2255 in the sentencing court; or, if the § 2255 remedy is inadequate or ineffective, by a habeas petition under 28 U.S.C. § 2241 in the judicial district where appellant's custodian is located." *Fouche v. Mukasey*, No. 08-5067, 2008 WL 4569958, at *1 (D.C. Cir. Sept. 5, 2008) (per curiam). Accordingly, the Court will dismiss the complaint without prejudice. *See, e.g., Hughley v. Dewalt*, No. 04-5013, 2004 WL 1749188, at *1 (D.C. Cir. Aug. 4, 2004) (per curiam) (affirming dismissal of district court's denial of Rule 60(b) motion because "appellant must challenge any conviction from the District Court for the Eastern District of Tennessee through a § 2255 motion filed in that court"); *Nailor v. United States*, No. 03-5298, 2004 WL 1078133, *1 (D.C. Cir. May 13, 2004) (per curiam) (finding no abuse of

6

discretion in district court's denying the Rule 60(b) motion because "appellant must challenge his criminal conviction through a motion to vacate his sentence filed in the sentencing court under 28 U.S.C. § 2255"); *Joseph v. United States*, No. 08-1486, 2008 WL 3978061, at *1 (D.D.C. Aug. 27, 2008) (dismissing civil action "[b]ecause a motion under Fed. R. Civ .P. 60(b) is not the proper means by which to challenge a federal conviction and sentence").

An Order consistent with this Memorandum Opinion is issued separately.

United States District Judge

Date: 11/6/08