

FILED

MAR - 5 2009

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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Michael A. Sheppard,

Plaintiff,

v.

K.B. Foster *et al.*,

Defendants.

Civil Action No.

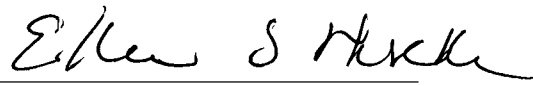
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MEMORANDUM OPINION

This action, brought *pro se*, is before the Court on its initial review of the complaint and application to proceed *in forma pauperis*. The Court will grant the application to proceed *in forma pauperis* and will dismiss the case for lack of jurisdiction.

Plaintiff is an inmate at the Perry Correctional Institution in Pelzer, South Carolina. He sues the State of South Carolina for "a new trial by jury." Compl. at 2. The complaint allegations suggest that plaintiff has been criminally prosecuted but it is unclear if a judgment of conviction has been entered. In any event, federal court review of state convictions is available under 28 U.S.C. § 2254 only after the exhaustion of available state remedies. *See* 28 U.S.C. §2254(b)(1). Thereafter, "an application for a writ of habeas corpus [] made by a person in custody under the judgment and sentence of a State court . . . may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced [petitioner] and each of such district courts shall have concurrent jurisdiction to entertain the application." 28 U.S.C. § 2241(d). If plaintiff has exhausted his state remedies, his federal recourse lies in the United States District

Court for the District of South Carolina. A separate Order of dismissal accompanies this
Memorandum Opinion.


United States District Judge

Date: February 11, 2009