

JUL 17 2009

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA****Clerk, U.S. District and
Bankruptcy Courts**

ANDRE DAVID LEFFEBRE,

Plaintiff,

v.

SAMUEL B. KENT, *et al.*,

Defendants.

Civil Action No.

09 1328**MEMORANDUM OPINION**

This matter is before the Court on plaintiff's application to proceed *in forma pauperis* and his *pro se* complaint. The Court will grant the application and dismiss the complaint for the reasons stated below.

Plaintiff is a federal prisoner who currently is incarcerated at the Administrative Maximum facility in Florence, Colorado. Generally, he alleges that the indictment against him "failed to carry a Grand Jury Mans/foremans [sic] signature," Compl. at 4, that the defendants conspired "to obtain a [sic] illegal and wrongful conviction" against him, *id.* at 6, that the United States District Court for the Southern District of Texas had no jurisdiction over his person or the criminal matter, *id.* at 11, and that his current incarceration is unlawful, *id.* at 7. For these alleged violations of his rights under the United States Constitution, plaintiff demands "a sum certain of \$777,000,000." *Id.* at 12-13.

Plaintiff may be awarded damages only if he first establishes that his conviction 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 does not satisfy this prerequisite and therefore his complaint fails to state a claim upon which relief can be granted. For these reasons, the Court will dismiss the complaint under 28 U.S.C. § 1915A(b)(1). *See, e.g., Leffebvre v. Cothren*, No. G-06-150, 2007 WL 4198554, at *1 (S.D. Tex. Nov. 26, 2007) (dismissing suit because “a judgment in favor of Plaintiff awarding him damages for defendant Cothren’s alleged omission implies the invalidity of Plaintiff’s conviction,” and thus is barred under *Heck*); *Leffebvre v. Carter*, No. G-06-149, 2007 WL 4206180, at *1 (S.D. Tex. Nov. 26, 2007) (same); *Leffebvre v. United States Fed. Corp.*, No. 1:07-CV-743, 2007 WL 3389994, at *1 (E.D. Tex. Nov. 14, 2007) (adopting Magistrate Judge’s Report and Recommendation to dismiss suit seeking to recover damages for allegedly unconstitutional imprisonment, or for other harm caused by actions whose unlawfulness would render plaintiff’s imprisonment invalid, under *Heck*).

An Order consistent with this Memorandum Opinion is issued separately on this same date.


United States District Judge

Date: 7/9/09