

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JUN 17 2010

**Clerk, U.S. District and
Bankruptcy Courts**

MOMOLU B. STEWART,

Plaintiff,

v.

ASSISTANT UNITED STATES ATTORNEY

ALBERT A. HERRING, *et al.*,

Defendants.

Civil Action No.

10-1014

UNA

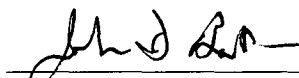
MEMORANDUM OPINION

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 brings this civil rights action under 42 U.S.C. § 1983, among other provisions, against the Assistant United States Attorney who prosecuted the criminal case in the Superior Court of the District of Columbia, the Metropolitan Police Department crime scene search officer who testified at trial, and the United States of America. Generally, plaintiff alleges that the defendants violated his rights protected under the Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution by causing his unlawful detention, prosecution, conviction and incarceration. Plaintiff demands a declaratory judgment, compensatory and punitive damages, and costs and expenses of litigation.

Because plaintiff's claims go to the fact of his incarceration, he cannot recover damages in this civil rights action 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 his complaint fails to state a claim upon which relief can be granted. This action will be dismissed under 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1). An Order is issued separately.



United States District Judge

DATE: June 14, 2010