

**FILED**

DEC 22 2010

Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

VICTOR BERNARD PERKINS,

Plaintiff,

v.

ERIC HOLDER, *et al.*,

Defendants.

Civil Action No.

**10 2229**

**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 alleges that he has been committed civilly to the custody of the Attorney General of the United States under 18 U.S.C. § 4246, and that his conditional release from custody has been granted and subsequently revoked on five occasions. He demands his release from custody and financial compensation of \$7 million for his wrongful confinement, as well as punitive damages.

Insofar as plaintiff demands his immediate release from custody, the proper means to do so is by filing a petition for writ of habeas corpus in the district where he currently is incarcerated. *See Chatman-Bey v. Thornburgh*, 864 F.2d 804, 809 (D.C. Cir. 1988) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 490 (1973)). And 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); *see also Perkins v.*

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*Ashcroft*, No. 07-2023, 2007 WL 3376687, at \*1 (D.D.C. Nov. 8, 2007), *aff'd*, 275 Fed. Appx. 17 (D.C. Cir. 2008); *Perkins v. Anderson*, No. 06-4021, 2006 WL 3392787, at \*1 (D.Minn. Nov. 21, 2006); *Perkins v. United States*, No. 5:01-HC-509, 2001 WL 34704518, at \*1 (E.D.N.C. July 26, 2001). Plaintiff has not satisfied this prerequisite and therefore his complaint fails to state a claim upon which relief can be granted. An Order is issued separately.



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United States District Judge

DATE: 12/10/00