

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

FEB 25 2011

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

Barry Bernard Martin,

Petitioner,

v.

United States of America *et al.*,

Respondents.


Civil Action No.

11 0435

MEMORANDUM OPINION

This matter, brought *pro se*, is before the Court on its initial review of the mandamus petition accompanied by an application to proceed *in forma pauperis*. The Court will grant the application to proceed *in forma pauperis* and dismiss the case for lack of jurisdiction.

Petitioner is an inmate at the District of Columbia Jail based on a parole violator warrant executed in November 2010. *See* Pet. at 2. He seeks a writ of mandamus under 28 U.S.C. § 1361 to compel his “immediate release.” Pet. at 7. Because this claim is properly pursued by applying for a writ of *habeas corpus* directed at petitioner’s warden -- not named in this action -- mandamus relief is not available. *See Muhammad v. Close*, 540 U.S. 749, 750 (2004) (“Challenges to the validity of any confinement or to particulars affecting its duration are the province of habeas corpus[.]”) (citation omitted); *Chatman-Bey v. Thornburgh*, 864 F.2d 804, 806 (D.C. Cir. 1988) (where “habeas is an available and potentially efficacious remedy, it is clear beyond reasonable dispute that mandamus will not appropriately lie”); 28 U.S.C. § 2243 (“The [habeas] writ, or order to show cause shall be directed to the person having custody of the person detained.”). A separate Order of dismissal accompanies this Memorandum Opinion.


United States District Judge

Date: February ²⁴24, 2011

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3