

FILED

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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Matthew Wayne Freeze,

Plaintiff,

v.

Barack Hussein Obama,

Defendant.

Civil Action No.

11 1098

MEMORANDUM OPINION

Plaintiff, proceeding *pro se*, has submitted a Complaint for Declaratory Relief, along with an application to proceed *in forma pauperis* (“IFP”). Upon review of the complaint, the Court will grant the IFP application and will dismiss the complaint pursuant to 28 U.S.C. § 1915A (requiring dismissal of a prisoner’s complaint upon a determination that the complaint, among other grounds, fails to state a claim upon which relief can be granted).

Plaintiff is a federal prisoner at the Federal Correctional Complex in Forrest City, Arkansas. He seeks a declaration that 18 U.S.C. § 922(g)(1), prohibiting a convicted felon from possessing a firearm, is an unconstitutional bill of attainder in violation of Art. 1, § 9, cl. 3 of the Constitution. “ ‘[L]egislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial are bills of attainder prohibited by the Constitution.’ ” *United States v. Brown*, 381 U.S. 437, 448-49 (1965).

The challenged provision does not constitute a bill of attainder because it “set[s] forth a rule generally applicable to all persons possessing a certain characteristic, *i.e.*, having been

[convicted] [of] a felony. [It] [is] reasonably calculated to achieve a nonpunitive public purpose, *i.e.*, to keep firearms out of the hands of persons who . . . may ‘have a somewhat greater likelihood than other citizens to misuse firearms.’ ” *U.S. v. Munsterman*, 177 F.3d 1139, 1142 (9th Cir. 1999) (citation omitted); accord *Lewis v. U.S.*, 445 U.S. 55, 64 (1980) (observing that § 922(g) “prohibits categories of presumptively dangerous persons from transporting or receiving firearms.”); see *McDonald v. City of Chicago, Ill.*, 130 S.Ct. 3020, 3047 (“We made it clear in *Heller* that our holding did not cast doubt on such longstanding regulatory measures as “prohibitions on the possession of firearms by felons”) (citing *District of Columbia v. Heller*, 554 U.S. 570 (2008)).

Plaintiff claims that he is a “soon to be released felon who is disqualified from exercising the fundamental right to keep and bear arms” Compl. ¶ 7. But, as the Supreme Court observes, “a convicted felon is not without relief” in seeking to remove the firearms disability. See *Lewis*, 445 U.S. at 64 (citing, *inter alia*, 18 U.S.C. § 925). A separate Order of dismissal accompanies this Memorandum Opinion.

Date: June , 2011


United States District Judge