

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**  
JUN 30 2011  
Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

Albert S. Nelson,

Plaintiff,

v.

United States of America,

Defendant.

Civil Action No. **11 1227**

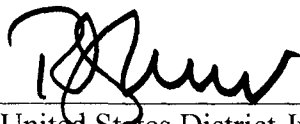
MEMORANDUM OPINION

This matter is before the Court on review of the plaintiff's *pro se* complaint and application to proceed *in forma pauperis*. The application will be granted and the complaint will be dismissed pursuant to 28 U.S.C. § 1915A (requiring dismissal of a prisoner's complaint upon a determination that the complaint, among other grounds, is frivolous).

The plaintiff is a prisoner at the Federal Correctional Center in Coleman, Florida. He sues the United States because the Attorney General allegedly allowed Bureau of Prisons staff to collect his DNA "against [his] will under the threat of disciplinary action." Compl. ¶ 1. Plaintiff acknowledges that BOP was acting pursuant to the DNA Analysis Backlog Elimination Act of 2000, 42 U.S.C. §§ 14135-14135e, which has been found to be constitutional. *See Kaemmerling v. Lappin*, 553 F.3d 669, 678-86 (D.C. Cir. 2008). However, he claims that the collection of his DNA was improper because the Attorney General "stood mute" knowing that "B.O.P. officials [had] obtained an alleged certified judgment and commitment order from the United States District Court . . . procured as a result of fraud . . . perpetrated by the United States Attorneys." Compl. ¶ 1. Because plaintiff does not suggest that his conviction or sentence has been officially

invalidated for any reason, let alone for fraud, his claim is based on a false premise. Therefore, the Court will dismiss the complaint as frivolous. *See Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (authorizing dismissal of a complaint as frivolous that contains “fanciful factual allegation[s]”); *Brandon v. District of Columbia Bd. of Parole*, 734 F.2d 56, 59 (D.C. Cir. 1984) (finding complaint lacking “an arguable basis in law and fact” subject to dismissal as frivolous). A separate Order accompanies this Memorandum Opinion.

Date: June 29, 2011

  
United States District Judge