UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED
JAN 31 2012
Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

Lent Christopher Carr, II,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 12 0165
	)	
Eric Holder *et al.*,	)	
	)	
Defendants.	)	

MEMORANDUM OPINION

This matter is before the Court on review of 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 fails to state a claim upon which relief may be granted).

Plaintiff is an inmate at the United States Penitentiary Hazelton in Bruceton Mills, West Virginia, suing for monetary damages under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). He challenges "Defendant['s] fraudulent induced indictment, conviction and sentence," Compl. at 2, resulting from proceedings in the United States District Court for the Eastern District of North Carolina. *See id.* at 4. Specifically, plaintiff claims that the sentencing court lacked jurisdiction over the criminal case. *Id.*

Because the success of plaintiff's claim would necessarily void his conviction, plaintiff cannot recover monetary damages under *Bivens* without first showing that he has invalidated the conviction 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

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issuance of a writ of habeas corpus." *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994); *see, e.g., Taylor v. U.S. Bd. of Parole,* 194 F.2d 882, 883 (D.C. Cir. 1952) (stating that a motion to vacate under 28 U.S.C. § 2255 is the proper vehicle for challenging the constitutionality of a statute under which a defendant is convicted); *Ojo v. I.N.S.*, 106 F.3d 680, 683 (5th Cir. 1997) (explaining that the sentencing court is the only court with jurisdiction to hear a defendant's complaint regarding errors that occurred before or during sentencing).

Plaintiff has not shown the invalidation of his conviction and, thus, has failed to state a claim upon which relief can be granted under *Bivens*. A separate Order of dismissal accompanies this Memorandum Opinion.

United States District Judge

Date: January 27, 2012