

FILED

APR 12 2012

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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Lester Fletcher,

Plaintiff,

v.

Eric Holder,

Defendant.

Civil Action No.

12 0569

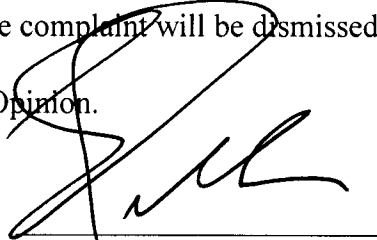
MEMORANDUM OPINION

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 Attorney General Eric Holder under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). This action captioned "Bivens Action Complaint to Dismiss the Constitutionality of Titles 18 & 21 U.S.C. Charges on Fifth & Tenth Amendment Ground" is at best a challenge to the criminal statutes under which plaintiff was convicted. *See* Compl. at 4-5; *Taylor v. U.S. Bd. of Parole*, 194 F.2d 882, 883 (D.C. Cir. 1952) (stating that a motion under 28 U.S.C. § 2255 is the proper vehicle for challenging the constitutionality of a statute under which a defendant is convicted).

Plaintiff has stated no claim against Attorney General Holder because *Bivens* claims are against federal officials in their individual capacity only, *see Bivens*, 403 U.S. at 395-97;

Simpkins v. District of Columbia Gov't, 108 F.3d 366, 368-69 (D.C. Cir. 1997), and liability attaches only when it is shown that the official was personally and directly responsible for the alleged constitutional violations. *See Cameron v. Thornburgh*, 983 F.2d 253, 258 (D.C. Cir. 1993). Plaintiff has not stated any facts directly implicating the Attorney General in any wrongdoing – nor can he credibly do so. Hence, the complaint will be dismissed with prejudice. A separate Order accompanies this Memorandum Opinion.


United States District Judge

Date: March 27, 2012