

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

DEC - 4 2013

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

Gary Charles Brestle,)
)
Plaintiff,)
)
v.)
)
Charles F. Samuels, Jr.,)
)
Defendants.)

Civil Action No. **13-1928**

MEMORANDUM OPINION

This matter is before the Court on its initial 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, which requires the Court to screen and dismiss a prisoner's complaint upon a determination that it fails to state a claim upon which relief may be granted.

Plaintiff is a federal prisoner in Jesup, Georgia, seeking the "substantial sentence reduction" he alleges "the Government" promised him as an informant. Compl. at 4. He sues the Director of the Bureau of Prisons under the Administrative Procedure Act ("APA"), 5 U.S.C. § 702, but the APA does not apply to "agency action [as alleged here] committed to agency discretion by law." 5 U.S.C. § 701 (a)(2). In addition, the APA does not apply when, as here, another adequate remedy is available. *Id.* § 704; *see* Fed. R. Crim. P. 35(b) ("Reducing a Sentence for Substantial Assistance"). Besides, whether the BOP Director has any authority to bind the government to the alleged agreement to alter a sentence is highly unlikely. *See* 18 U.S.C. §§ 4041-42 (BOP's charge and duties); *cf. with* 28 U.S.C. § 519 ("the Attorney General shall supervise all litigation to which the United States . . . is a party, and shall direct all United

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States attorneys . . . appointed under section 543 . . . in the discharge of their respective duties.”).

A separate Order of dismissal accompanies this Memorandum Opinion.

Date: November 8th, 2013

Allen K. Kelly
United States District Judge