

**FILED**

JUL 18 2015

**Clerk, U.S. District and  
Bankruptcy Courts**

DOMINGO MARTINEZ,

Petitioner,

V.

UNITED STATES OF AMERICA,

Respondent.

Civil Action No.

14-1213

# MEMORANDUM OPINION

This matter is before the Court on petitioner’s application to proceed *in forma pauperis* and his *pro se* Motion under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody. He is serving a prison sentence of 96 months upon his criminal conviction in the Superior Court of the District of Columbia. *See* Pet.’s Mot. ¶¶ 1-5. He asserts a claim of ineffective assistance of trial counsel and his innocence of the crimes to which he pled guilty. *See generally id.* ¶ 12. He demands a new trial. *See id.* at 17.

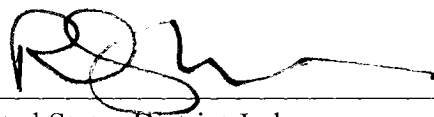
“Under D.C. Code § 23-110, a prisoner may seek to vacate, set aside, or correct sentence on any of four grounds: (1) the sentence is unconstitutional or illegal; (2) the Superior Court did not have jurisdiction to impose the sentence; (3) the sentence exceeded the maximum authorized by law; or (4) the sentence is subject to collateral attack.” *Alston v. United States*, 590 A.2d 511, 513 (D.C. 1991). Such a motion must be filed in the Superior Court, *see* D.C. Code § 23-110(a), and “shall not be entertained . . . by any Federal . . . court if it appears that the [prisoner] has failed to make a motion for relief under this section or that the Superior Court has denied him relief, unless it also appears that the

remedy by motion is inadequate or ineffective to test the legality of his detention.” D.C. Code § 23-110(g); *see Williams v. Martinez*, 586 F.3d 995, 998 (D.C. Cir. 2009) (“Section 23-110(g)’s plain language makes clear that it only divests federal courts of jurisdiction to hear habeas petitions by prisoners who could have raised viable claims pursuant to section 23-110(a).”). Petitioner has no recourse in this federal district court, and, therefore, the Court will deny the petition and dismiss this action.

An Order accompanies this Memorandum Opinion.

DATE:

7/17/14

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a series of loops and a long horizontal stroke.

United States District Judge