

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Steven Eriksen,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 15-0053 (CKK)
)	
)	
United States District Court,)	
District of Columbia,)	
)	
Respondent.)	

MEMORANDUM OPINION

Petitioner, proceeding *pro se*, is a resident of Live Oak, Florida. He has filed a form “Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241.” For the reasons explained below, the Court will deny the petition and dismiss this case.

A court . . . entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant . . . is not entitled thereto.

28 U.S.C. § 2243. Habeas relief is available to individuals who are in custody under color of authority. *See* 28 U.S.C. § 2242(c) (“The writ . . . shall not extend to a prisoner unless . . . [h]e is in custody . . .”). As explained by the Supreme Court:

The federal habeas corpus statute requires that the applicant must be ‘in custody’ when the application for habeas corpus is filed. This is required not only by the repeated references in the statute, but also by the history of the great writ. Its province, shaped to guarantee the most fundamental of all rights, is to provide an effective and speedy instrument by which judicial inquiry may be had into the legality of the detention of a person.

Carafas v. LaVallee, 391 U.S. 234, 238 (1968) (footnotes omitted).

“The writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody.” *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 494-95 (1973). Consequently, the habeas applicant must “allege the facts concerning [his] commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known.” 28 U.S.C. § 2242. Because the writ or show cause order must be directed at “ ‘the person’ with the ability to produce the prisoner’s body before the habeas court,” the proper respondent to a habeas petition is the detainee’s immediate custodian. *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) (quoting 28 U.S.C. § 2242); accord *Blair-Bey v. Quick*, 151 F.3d 1036, 1039 (D.C. Cir. 1998).

Petitioner has erroneously named this Court as the respondent, which alone provides a basis for dismissal. At a more basic level, however, petitioner has not satisfied the custody requirement. Petitioner claims that he is [b]eing held in Custody as a result of the failure of the United States Congress to address [a] United States Supreme Court[] decision . . . as it relates [to] the Medicare provisions of The Patient Protection and Affordable Care Act of 2010.” Pet. at 1.¹ He asserts four grounds for relief that have nothing to do with habeas, *see id.* at 6-8, and he wants this Court to “[d]eclare the Medicaid provision . . . unconstitutional and require the Congress . . . to amend[] the law” *Id.* at 8. The petition is so lacking “*an arguable* basis in law and fact” for habeas relief as to be frivolous. *Brandon v. District of Columbia Bd. of Parole*, 734 F.2d 56, 59 (D.C. Cir. 1984) (emphasis in original). Hence, the Court will deny the petition and dismiss the case. A separate Order of dismissal accompanies this Memorandum Opinion.

s/
COLLEEN KOLLAR-KOTELLY
United States District Judge

Date: February 20, 2015

¹ The cited page numbers are those assigned by the electronic case filing system.