UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

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) Civil Action No. 15-0638
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MEMORANDUM OPINION

This matter is before the Court on the plaintiff's application to proceed *in forma pauperis* and his *pro se* complaint. The Court will grant the application and dismiss the complaint in its entirety.

Plaintiff appears to challenge virtually every aspect of the criminal proceedings against him, from his arrest through his recent transfer to a federal penitentiary. Insofar as plaintiff challenges his conviction in and the sentence imposed by the Superior Court of the District of Columbia, this federal district court lacks jurisdiction to entertain such claims. "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).").

Insofar as plaintiff demands monetary compensation for his allegedly unconstitutional conviction or imprisonment, the Supreme Court's holding in *Heck v. Humphrey*, 512 U.S. 477 (1994), applies:

We hold that, in order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus, 28 U.S.C. § 2254. A claim for damages bearing that relationship to a conviction or sentence that has *not* been so invalidated is not cognizable under § 1983.

Id. at 486-47 (emphasis in original). It appears that plaintiff's success in this action would render his conviction and sentence invalid, and absent a showing that his conviction already has been reversed, expunged, or called into question by the issuance of a writ of habeas corpus, he cannot recover monetary damages. See Williams v. Hill, 74 F.3d 1339, 1340-41 (D.C. Cir. 1996) (per curiam) (applying Heck rationale so that plaintiff "cannot recover damages for the actions of those who allegedly brought about his [criminal] convictions" where plaintiff was found guilty and verdicts had not been overturned); see also In re Jones, 652 F.3d 36 (D.C. Cir. 2011) (concluding that plaintiff whose complaint is dismissed under Heck "has failed to state a claim for purposes of [28 U.S.C. §] 1915(g).").

Finally, insofar as plaintiff's demand for immediate release from custody is construed as a petition for a writ of habeas corpus, this Court cannot grant such relief. A habeas action is subject to jurisdictional and statutory limitations. *See Braden v. 30th Judicial Cir. Ct. of Ky.*, 410 U.S. 484 (1973). The proper respondent in a habeas corpus action is the petitioner's custodian, *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004); *Blair-Bey v. Quick*, 151 F.3d 1036, 1039 (D.C. Cir. 1998) (citing *Chatman-Bey v. Thornburgh*, 864 F.2d 804, 810 (D.C. Cir. 1988)), who in this case is the Warden of the USP Lewisburg. Because this "district court may not entertain a habeas petition involving present physical custody unless the respondent custodian is within its territorial jurisdiction," *Stokes v. U.S. Parole Comm'n*, 374 F.3d 1235, 1239 (D.C. Cir. 2004), this Court cannot entertain a petition for a writ of habeas corpus..

The Court will dismiss the complaint and this civil action for failure to state claims upon which relief can be granted. *See* 28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A(b)(1). An Order consistent with this Memorandum Opinion is issued separately.

DATE: June 5, 2015

United States District Judge