

DAUD HOLIDAY,
Plaintiff,
v.
UNITED STATES OF AMERICA, *et al.*,
Defendants.

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.

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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