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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Raoul Lafond,)
)
 Petitioner,)
)
 v.)
)
 United States Department of Justice,)
)
 Respondent.)
 _____)

Case: 1:16-cv-00464
Assigned To : Unassigned
Assign. Date : 3/8/2016
Description: Pro Se Gen. Civil (F Deck)

MEMORANDUM OPINION

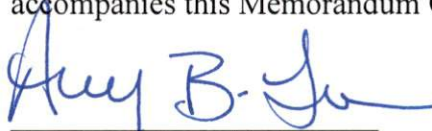
This matter is before the Court on review of petitioner's *pro se* "Petition for Writ of Mandamus under 28 U.S.C. § 1361." The accompanying application to proceed *in forma pauperis* will be granted and the case will be dismissed for want of subject matter jurisdiction. See Fed. R. Civ. P. 12(h)(3) (requiring the court to dismiss an action "at any time" it determines that subject matter jurisdiction is wanting).

Petitioner is a prisoner at the Federal Correctional Institution in Loretto, Pennsylvania. He seeks to compel the United States Attorney General to present his claim of an alleged criminal conspiracy to a grand jury pursuant to 18 U.S.C. § 3332(a).

The extraordinary remedy of a writ of mandamus is available to compel an "officer or employee of the United States or any agency thereof to perform a duty owed to plaintiff." 28 U.S.C. §1361. Plaintiff bears a heavy burden of showing that his right to a writ of mandamus is "clear and indisputable." *In re Cheney*, 406 F.3d 723, 729 (D.C. Cir. 2005) (citation omitted). "It is well settled that a writ of mandamus is not available to compel discretionary acts." *Cox v. Sec'y of Labor*, 739 F. Supp. 28, 30 (D.D.C. 1990) (citing cases).

The United States Attorney General has absolute discretion in deciding whether to investigate claims for possible criminal or civil prosecution. *See Hawkins v. Lynch*, 626 Fed. App'x 1, 2 (D.C. Cir. 2015) (per curiam), quoting *United States v. Nixon*, 418 US. 683, 693 (1974) (“[T]he Executive Branch has exclusive authority and absolute discretion to decide whether to prosecute a case[.]”). As a general rule applicable to the circumstances of this case, such decisions are not subject to judicial review. *Shoshone-Bannock Tribes v. Reno*, 56 F.3d 1476, 1480-81 (D.C. Cir. 1995); see *Wightman-Cervantes v. Mueller*, 750 F. Supp. 2d 76, 80 (D.D.C. 2010) (“[A]n agency's decision whether to prosecute, investigate, or enforce has been recognized as purely discretionary and not subject to judicial review.”) (citing *Block v. SEC*, 50 F.3d 1078, 1081-82 (D.C. Cir. 1995)) (other citation omitted). Moreover, plaintiff “lacks standing to force presentation of his alleged evidence to a grand jury under 18 U.S.C. § 3332(a),” *Hawkins*, 626 Fed. App'x at 2, and “[t]he defect of standing is a defect in subject matter jurisdiction.” *Haase v. Sessions*, 835 F.2d 902, 906 (D.C. Cir. 1987). Hence, this case will be dismissed with prejudice. A separate Order accompanies this Memorandum Opinion.

Date: March 3rd, 2016


United States District Judge