

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ROGER CHARLES DAY, JR.,)	
)	
Plaintiff,)	
)	
v.)	Case: 1:16-cv-01162
)	Assigned To : Unassigned
)	Assign. Date : 6/22/2016
EXECUTIVE OFFICE OF THE PRESIDENT,)	Description: Pro Se Gen. Civil (F Deck)
)	
Defendant.)	
)	

MEMORANDUM OPINION

This matter is before the Court on review of the plaintiff's application to proceed *in forma pauperis* and his *pro se* complaint. For the reasons discussed below, the Court will grant the application and dismiss the complaint.

The plaintiff explains that he "was extradited from Mexico in December 2010," and ultimately was "tried and punished . . . for offenses . . . for which he was neither duly accused nor . . . authorized by Mexico in its Order of extradition." Compl. at 2. He purports to bring this action under the Administrative Procedures Act, *see* 5 U.S.C. § 551 *et seq.*, Compl. at 1, requesting "an immediate hearing before the Executive Office of the President where the protections under [18 U.S.C. § 3192] can be obtained[.]" *id.* at 2.¹ The plaintiff thus invites this

¹ Section 3912 of Title 18 of the United States Code provides:

Whenever any person is delivered by any foreign government to an agent of the United States, for the purpose of being brought within the United States and tried for any offense of which he is duly accused, the President shall have power to take all necessary measures for the transportation and safekeeping of such accused person, and for his security against lawless violence, until the final conclusion of his trial for the offenses specified in the warrant of extradition, and until his final

Court to consider the validity of his criminal conviction and sentence, and this Court is not a proper forum for adjudication of the matter. *See Day v. Obama*, No. 1:15-CV-00671, 2015 WL 2122289, at *2 (D.D.C. May 1, 2015) (noting that plaintiff “was sentenced by the federal district court for the Eastern District of Virginia,” and that his § 2255 motion must proceed in that court), *appeal filed*, No. 15-5144 (D.C. Cir. May 22, 2015); *see also United States v. Day*, No. 3:07CR154, 2016 WL 96161 (E.D. Va. Jan. 8, 2016) (denying § 2255 motion), *appeal filed*, No. 16-6118 (4th Cir. Feb. 1, 2016).

An Order accompanies this Memorandum Opinion.

DATE: 6/24/16


United States District Judge

discharge from custody or imprisonment for or on account of such offenses, and for a reasonable time thereafter, and may employ such portion of the land or naval forces of the United States, or of the militia thereof, as may be necessary for the safe-keeping and protection of the accused.