UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

ROBERT HEARD,))
Petitioner, v.) Case: 1:16-cv-01558 Assigned To: Unassigned Assign. Date: 8/2/2016 Description: Pro Se Gen. Civil (F Deck)
DEPARTMENT OF JUSTICE,)
Respondent.)))

MEMORANDUM OPINION

This matter is before the Court on the petitioner's application to proceed *in forma* pauperis and his pro se petition for a writ of mandamus. The Court will grant the application and dismiss the petition.

The petitioner alleges that the Attorney General of the United States refuses to prosecute a matter he had brought to her attention. He asks the Court to compel the respondent "to investigate and prosecute crimes against this nation." Pet. at 2 (emphasis removed).

Mandamus relief is proper only if "(1) the plaintiff has a clear right to relief; (2) the defendant has a clear duty to act; and (3) there is no other adequate remedy available to plaintiff." Council of and for the Blind of Delaware County Valley v. Regan, 709 F.2d 1521, 1533 (D.C. Cir. 1983) (en banc). The party seeking mandamus has the "burden of showing that [his] right to issuance of the writ is 'clear and indisputable." Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 289 (1988) (citing Bankers Life & Cas. Co. v. Holland, 346 U.S. 379, 384 (1953)). This petitioner addresses none of these elements, and thus fails to meet

his burden. Furthermore, "[i]t 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), and the Attorney General's decision to investigate any particular matter is left to her discretion, *see Shoshone Bannock Tribes v. Reno*, 56 F.3d 1476, 1480 (D.C. Cir. 1995) ("Courts have also refused to review the Attorney General's litigation decisions in civil matters."); *see also United States v. Nixon*, 418 U.S. 683, 693 (1974) (acknowledging that the Executive Branch "has exclusive authority and absolute discretion to decide whether to prosecute a case").

The petition for a writ of mandamus will be denied. An Order accompanies this Memorandum Opinion.

DATE: 7/29/16

United States District Judge

United States District Judge