

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JAN 26 2017

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

Juan Gabriel Cisneros,)
)
Plaintiff,)
)
v.)
)
Office of the Attorney General)
of the United States *et al.*,)
)
Defendants.)

Civil Action No. 16-2095-UNA

MEMORANDUM OPINION

The plaintiff, a federal prisoner proceeding *pro se*, has submitted a Complaint and an application to proceed *in forma pauperis*. The application will be granted and the complaint will be dismissed pursuant to 28 U.S.C. § 1915A (requiring dismissal of a prisoner’s case upon a determination that the complaint fails to state a claim upon which relief may be granted).

The plaintiff seeks “declaratory, injunctive, or prospective relief” for his alleged unconstitutional criminal prosecution in the Southern District of Texas. If the plaintiff were to succeed on his claims, his conviction could not stand. Therefore, this action is “not cognizable unless and until [the plaintiff] meets the requirements of *Heck*” by having the conviction invalidated via direct appeal or habeas corpus, or declared void by an authorized tribunal. *Harris v. Fulwood*, 611 Fed. App’x. 1, 2 (D.C. Cir. 2015) (per curiam) (citing *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994)). “*Heck* applies ‘no matter the relief sought (damages or equitable relief) . . . if success in [the] action would necessarily demonstrate the invalidity of confinement or its duration.’” *Id.* (quoting *Wilkinson v. Dotson*, 544 U.S. 74, 81-82 (2005) (alterations in original)).

The plaintiff's convictions have not been invalidated. See *United States v. Cisneros*, 112 F.3d 1272 (5th Cir. 1997) (affirming convictions on direct appeal); *Cisneros v. Stephens*, No. 2:13-Cv-126, 2014 WL 427188 (S.D. Tex. Feb. 4, 2014) (dismissing habeas corpus petition and denying certificate of appealability). Accordingly, this action will be dismissed for failure to state a claim. A separate order accompanies this Memorandum Opinion.



Chief Judge

Date: January 24, 2017