

FILED

OCT 05 2017

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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Sydney E. Smith,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 17-1542 (UNA)
)	
District of Columbia,)	
)	
Defendant.)	

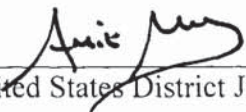
MEMORANDUM OPINION

Plaintiff, a 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).

Plaintiff sues the District of Columbia under 42 U.S.C. § 1983. He claims that the District violated his First Amendment right to access the court and his rights of due process and equal protection “when the Collateral Review Court accepted as true the government’s fraudulent motion and attorney Clennon’s fraudulent affidavit and denied [plaintiff’s] Motion to Vacate Conviction.” Compl. at 1.

If plaintiff were to succeed in this case, his conviction could not stand. Therefore, this action is “not cognizable unless and until [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)). Because the instant complaint is premised on plaintiff’s unsuccessful effort to invalidate his conviction, it falls squarely under *Heck*. As a result, this case will be dismissed for failure to state a claim. A separate order accompanies this Memorandum Opinion.


United States District Judge

Date: October 5, 2017