

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JUL 10 2019

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

JAMES EUGENE LARIVE, JR.,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Civil Action No. 19-1932 (UNA)

MEMORANDUM OPINION

It appears that the plaintiff was convicted by a jury in the United States District Court for the District of South Dakota, The Hon. Jeffrey Viken presiding. *See* Compl. at 2 (page numbers designated by CM/ECF). The plaintiff alleges that a jury instruction "wrongly allowed the jury to find [him] guilty," *id.*, and that he otherwise was denied a fair trial, *see generally id.* at 2-5. He requests "a second look or a new trial[.]" *id.* at 2. To the extent that there is a remedy available to the plaintiff, he must present his claim to the sentencing court by motion under 28 U.S.C. § 2255 to vacate, set aside or correct his sentence. *See Moore v. Smith*, 186 F. App'x 8 (D.C. Cir. 2006) (*per curiam*); *Taylor v. U.S. Bd. of Parole*, 194 F.2d 882, 883 (D.C. Cir. 1952). Because this Court lacks jurisdiction over this matter, *see, e.g., Embrey v. United States*, No. 10-cv-0171, 2010 WL 364349, at *1 (D.D.C. Jan. 29, 2010), the complaint and this civil action will be dismissed. An Order is issued separately.

DATE: July 8, 2019


United States District Judge