

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

The Court will grant petitioner’s application to proceed *in forma pauperis* and dismiss the petition. A writ of mandamus “compel[s] an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” 28 U.S.C. § 1361. Even if petitioner could demonstrate that he “(1) . . . 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 the plaintiff,” *Thomas v. Holder*, 750 F.3d 899, 903 (D.C. Cir. 2014), the respondents are not federal officers or agencies. Furthermore, the decision to commence or terminate criminal proceedings is one for the Executive Branch of the government, not the judiciary. *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985) (noting that “an agency’s decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency’s absolute discretion”); *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”).

An Order is issued separately.

/s/
CARL J. NICHOLS
United States District Judge

DATE: October 8, 2021