

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FRANKIE DEAN WINTERHALTER,

Petitioner,

v.

U.S. DEPARTMENT OF JUSTICE, *et al.*,

Respondents.

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Civil Action No. 23-0547 (UNA)

MEMORANDUM OPINION

This matter is before the Court on Petitioner Frankie Dean Winterhalter’s application to proceed *in forma pauperis* (ECF No. 2) and his *pro se* Petition for Judicial Review (ECF No. 1). Petitioner, an enrolled member of the Otoe-Missouria Tribe, is in the custody of the Oklahoma Department of Corrections serving a sentence imposed by the Oklahoma State courts for crimes committed within the boundaries of the Pawnee Nation reservation. *See* Pet. at 1. The Court understands Petitioner to assert that the Oklahoma courts lacked jurisdiction over his criminal case, yet he remains incarcerated. *See id.* at 2. He asks the Court, pursuant to the Administrative Procedure Act (“APA”), *see* 5 U.S.C. § 701 *et seq.*, “review . . . Respondents’ failure to investigate, and, if necessary, prosecute Oklahoma state officials” responsible for his “illegal detention,” Compl. at 3.

Petitioner has no cause of action under the APA, which provides for judicial review only if “there is no other adequate remedy.” 5 U.S.C. § 704. Insofar as petitioner demands release

from custody, “[t]hat demand is certainly cognizable through the writ of *habeas corpus*.” *Vetcher v. Sessions*, 316 F. Supp. 3d 70, 78 (D.D.C. 2018) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973)); see *Stern v. Fed. Bureau of Prisons*, 601 F. Supp. 2d 303, 305 (D.D.C. 2009) (concluding that the availability of habeas relief under § 2241 precluded an APA claim because “the APA does not allow a claim unless ‘there is no other adequate remedy in a court’” (internal quotation marks omitted)).

The Court will grant petitioner’s application to proceed *in forma pauperis* and will dismiss the petition and this civil action. An Order is issued separately.

DATE: March 6, 2023

/s/
RANDOLPH D. MOSS
United States District Judge