

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

MATTHEW J. SHERVEN,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 23-00754 (UNA)
)	
U.S. OFFICE OF SPECIAL COUNSEL,)	
)	
)	
Defendant.)	

MEMORANDUM OPINION

Plaintiff, appearing *pro se*, has filed a Complaint, ECF No. 1, and an application to proceed *in forma pauperis*, ECF No. 2. The Court will grant the application and dismiss this action pursuant to 28 U.S.C. § 1915(e)(2)(B) (requiring immediate dismissal of a case upon a determination that the complaint fails to state a claim on which relief may be granted).

Plaintiff is a resident of Mount Horeb, Wisconsin, who has sued the U.S. Office of Special Counsel to compel that office to investigate his complaint of “fraud, waste, and abuse of authority by employees of the National Reconnaissance Office.” Compl. at 1. Plaintiff identifies 18 U.S.C. § 241 as the basis of jurisdiction, *id.*, but that criminal conspiracy statute provides “no private right action.” *Johnson v. D.C. Crim. Just. Act*, 305 Fed. App’x 662, 662 (D.C. Cir. 2008) (per curiam). Nevertheless, courts cannot compel the executive branch to initiate an investigation because such decisions are “generally committed to an agency’s absolute discretion,” *Heckler v. Chaney*, 470 U.S. 821, 831 (1985), and “[m]andamus will not lie to control the exercise of this discretion,” *Powell v. Katzenbach*, 359 F.2d 234, 234 (D.C. Cir. 1965). Therefore, this case will be dismissed by separate order.

Date: April 12, 2023

_____/s/_____
TANYA S. CHUTKAN
United States District Judge