

MAC TRUONG,
a.k.a. DMT MAC TRUONG,

Plaintiff,

v.

GERALD D. MILLER, *et al.*,

Defendants.

This matter is before the Court on review of this *pro se* plaintiff's application to proceed *in forma pauperis* (ECF No. 2) and civil complaint (ECF No. 1). The Court will GRANT the application and DISMISS the complaint without prejudice.

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defendants regarding their conspiracy and criminal misconduct, indict, and prosecute them[.]” *Id.* at 12 (¶ 12).

As plaintiff well knows, *see Truong v. Salierno*, No. 1:23-cv-2592 (D.D.C. Oct. 11, 2023) (ECF No. 4); *Truong v. Valenziano*, No. 1:23-cv-2501 (D.D.C. Oct. 11, 2023) (ECF No. 4), there is no private right of action under the statutes cited, *see Banks v. Kramer*, No. 09-5140, 2009 WL 5526780, at *1 (D.C. Cir. Dec. 30, 2009) (per curiam) (affirming dismissal of claims under “18 U.S.C. §§ 1001, 1503, 1505, 1621, and 241 [because] there is no private right of action under these criminal statutes”); *Rush v. Hillside Buffalo, LLC*, 314 F. Supp. 3d 477, 482 n.3 (W.D.N.Y. 2018) (finding that 10 U.S.C. § 921 “falls within the punitive articles of the Uniform Code of Military Justice,” which in addition to its inapplicability in that case does not create “a private cause of action to enforce the punitive articles enacted therein[.]”); *Peavey v. Holder*, 657 F. Supp. 2d 180, 190 (D.D.C. 2009), (dismissing claims under 18 U.S.C. §§ 1001, 1503, 1505, 1512, and 1519 because they “do not create private causes of action”), *aff’d*, No. 09-5389, 2010 WL 3155823 (D.C. Cir. Aug. 9, 2010) (per curiam); *Abou-Hussein v. Gates*, 657 F. Supp. 2d 77, 81 (D.D.C. 2009) (concluding that 18 U.S.C. § 241 is criminal statute which “do[es] not expressly create a private right of action upon which plaintiff may sue defendants”), *aff’d*, No. 09-5358, 2010 WL 2574084 (D.C. Cir. June 11, 2010) (per curiam), *cert. denied*, 562 U.S. 1201 (2011); *see also Central Bank of Denver v. First Interstate Bank of Denver*, 511 U.S. 164, 190 (1994) (refusing to infer a private right of action from a “bare criminal statute”).

Plaintiff fares no better with his demand that defendants be prosecuted criminally. “The power to decide when to investigate, and when to prosecute, lies at the core of the Executive’s duty to see to the faithful execution of the laws; when reviewing the exercise of that power, the judicial authority is, therefore, at its most limited.” *Cnty. for Creative Non-Violence v. Pierce*, 786 F.2d 1199, 1201 (D.C.

Cir. 1986). The Executive Branch, not a federal court, initiates criminal proceedings. *See 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”). And plaintiff is “a private citizen [who] lacks a judicially cognizable interest in the prosecution or nonprosecution of another.” *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973); *see Volovets v. Clinton*, No. 22-5207, 2022 WL 5239553, at *1 (D.C. Cir. Oct. 6, 2022) (per curiam) (affirming dismissal of lawsuit “because, as a private party, [plaintiff] cannot bring claims under criminal law or seek to compel the criminal investigation or prosecution of the defendants”).

An Order is issued separately.

CHRISTOPHER R. COOPER
United States District Judge

DATE: January 26, 2024