

No. _____

USADC No. 17-5159
Action Involves The
SUPEME COURT OF THE UNITED STATES Challenge of The
Constitutionality of
Keith Bryan Webb-EL-Petitioner
A Federal Statute
vs.
Pursuant, To Title
Thomas R. Kane, Director, U.S.
28 USC § 2403, And
Department of Justice, Federal
Fed. R. Civ. Pro.
Bureau of Prisons, Central Office, et al.,
Rule 5.1(a)
Respondent(S)

Petitioner Webb-EL, Expedited Motion to the Supreme Court,
Pursuant, Court Rule 13(5) Seeking Leave, And Or Permission
To File An Extension Of Time To File His Petition For A Writ
ef Certiorari, Due To The Extraordiary Circumstances That Has
Occurred Here At United States Penitentiary Florence, CO That
Involves Inmate Upon Inmates Assult's, Stabbings, And Most
Recently Inmate Being Murder By Another Inmate, Which Resulted
In The Penitentiary Being Placed On Emergency Lockdown, And
Or Modified Lockdown In D/A Housing Unit That Suspended All
Inmates Movement, To The Prison Law Library, And the Law
Library Movement Being Split, And The Petitioner, Being Allowed
To Go To The Prison Law Library Every Other Day, Has Prevented
The Petitioner Webb-EL, From Filing His Petition For A Writ of
Certiorari On Time

To the Honorable John G. Roberts, Jr, Cheif Justice of the United States Supreme Court.

Now COMes, the Petitioner Keith B. Webb-EL, Pro Se in the above style cause, and case number.

Style, cause, and case number, hereby files the above mention described Expedited Motion.

Jurisdiction:

The Petitioner Webb-EL, herein invokes this Supreme Court, jurisdiction under Article III, Section 2, of the U.S. Constitution, and under Title 28 USC § 2106, to entertain, and adjudicate the petitioner, Expedited Motion for Extension of Time to file Petition For A Writ of Certiorari, and to judicialy review, and adjudicate the U.S. Court of Appeals For the Disitrcit of Columbia final order judgment, July 17, 2018, that summary dismissed the petitioner, Civil Human Right's, and Constitutional Right's Violation Complaint.

That arised a controversy between the Petitioner Keith B. Webb-EL, and the Respondent Thomas R. Kane, et al., that arsoed under the criminal, and Civil Laws of the United States, and the Constitution within the meaning of Article III, Section 2, of the Constitution.

Extension of Time To File The Petitioner
Webb-EL, Petition For A Writ of Certiorari
Extraordiary Circumstances Argument

The Petitioner Webb-EL, respectfully moves this most Honorable Supreme Court, to pursuant, to Rule 13(5), and under Fedr. R. Civ. Pro. Rule 201 To Take Judicial Notice of the Below stated Numbnerated Fact's.

1. The petitioner, argues, and contends herein that he was prevented from filing his petition for a wrot of certiorari pursuant, to the Court October 15, Or 16 2018 Court deadline Due to the Extraordinary Circumstances, that has occurred here at United States Pentiteniary Florence, from July 2018

Thru October 2018, where the penitentiary was placed on Emergency, lockdown, and or Modified lockdown where, the petitioner, was lockdown in his cell, 24 Hours a day, or confined to his Unit D/A Flats with all movement being suspened to the Law Library, or any other programing movement. See: Appendix (C).

2. Because of the Inmate upon Inmate's, Assult's. Stabbings , and most Recently Inmate being murder by another Inmate on or about October 28, 2018.
3. Which all resulted in the petitioner Webb-EL, not being allowed to go to the prison law library to prepare his Certiorari Petition, along with the Administration splitting the genral population law library moves, where the petitioner, is allowed to go to the law library every other days, See: Schact v. United State, 398 US 58 26 L Ed 2d 44 (1970) APPENDIX (B).
4. The petitioner, states herein that they prison emergency, or modified lockdowns are beyond his conrole's, which has prevented him from filing his Petition For A Wirt of Certoirari..

Conclusion:

WHEREFORE, the foregoing above mention described reason's, the petitioner, herein prays that this most Honorable Supreme Court, shall grant him Extension of Time to File his Writ of Certiorari Petition.

All in the alternative the petitioner Webb-EL, declare herein that it would be a manifested of injustice and a denial of the petitioner, 5th Amend. Due Process, and Equal Protection of the Law Constitutional Rights, Human Rights, and result in an inherently miscarriage of justice if this most Honorable Supreme Court, would deny the petitioner, an Exension of Time to file his Certiorari Petition, where the extraordiary circumstance interfered with his ability to file his Ceriorari petition in a timely manner.

Verification

I, Keith B. Webb ^{-sp} hereby verify that every statement and allegation, I have made herein is true, and correct to the best of my knowledge, and being made under the penalty of perjury pursuant, to 28 USC § 1746 on this day 5th month Feb Year 2019 Keith B. Webb -sp

Respectfully Submitted,

Keith B. Webb ^{-sp}
Keith Byran Webb-EL
Pro se
Reg No. 19665-080
United States Penitentiary Florence
P.O. Box 7000
Florence, CO 81226

APPENDIX (A)

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Keith Bryan Webb-El,)
v. Plaintiff,) Case: 1:17-cv-01111 Jury Demand
v.) Assigned To : Unassigned
Thomas R. Kane *et al.*,) Assign. Date : 6/9/2017
Defendants.) Description: Pro Se Gen. Civil (F Deck)

MEMORANDUM OPINION

Plaintiff, a federal prisoner proceeding *pro se*, has submitted a Complaint and an application to proceed *in forma pauperis*. The application will be granted and the complaint will be dismissed pursuant to 28 U.S.C. § 1915A (requiring dismissal of a prisoner's case upon a determination that the complaint fails to state a claim upon which relief may be granted).

In 1985, plaintiff was convicted in the United States District Court for the Western District of Texas of second-degree murder and three counts of injury to a child; he is serving a life sentence. *See Webb-El v. Stewart*, No. CV PWG-15-1510, 2015 WL 11090390, at *1 (D. Md. June 3, 2015); *Webb-El v. Stewart*, No. CIV.A. PWG-14-1961, 2014 WL 6647037, at *1 (D. Md. Nov. 21, 2014). Distilled to its core, the instant complaint challenges the basis of plaintiff's confinement. He sues the director of the Bureau of Prisons; the wardens of the Federal Correctional Institutions in Cumberland, Maryland, and Gilmer, West Virginia, and certain unit and case managers at those facilities; and the chairperson of the U.S. Parole Commission and a parole examiner. *See* Compl. Caption. Plaintiff seeks to hold the defendants liable for

creating a writ[t]en document, and or instruction [sic] [in his inmate file] that is based upon fuardelent [sic], and or enaccurate [sic] information of the U.S. Government purported non-existing capital offense of second degree murder,

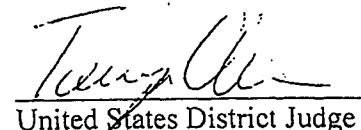
APPENDIX (A)

Case 1:17-cv-01111-UNA Document 4 Filed 06/09/17 Page 2 of 2

that which he was not charged by a federal grand jury in Count One of the Government July 16, 1985 superseding indictment[.]

Compl. at 11. Plaintiff contends that because of the fraudulent and inaccurate information, he has “sustain[ed] physical/and physiological injuries for the past 33 years[.]” *Id.* He seeks \$10 million in damages. *Id.* at 16.

Although the complaint is not a model of clarity, the court finds from its review of plaintiff’s allegations and the attachments to the complaint that he is questioning the legality of his criminal indictment and, by extension, the sentencing court’s judgment and commitment order. If plaintiff were to succeed here, his sentence could not stand. Therefore, this action is “not cognizable unless and until [plaintiff] meets the requirements of *Heck*” by having the conviction invalidated via direct appeal or habeas corpus, or declared void by an authorized tribunal. *Harris v. Fulwood*, 611 Fed. App’x. 1, 2 (D.C. Cir. 2015) (per curiam) (citing *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994)). “*Heck* applies ‘no matter the relief sought (damages or equitable relief) . . . if success in [the] action would necessarily demonstrate the invalidity of confinement or its duration.’” *Id.* (quoting *Wilkinson v. Dotson*, 544 U.S. 74, 81-82 (2005) (alterations in original)). Because nothing in the complaint suggests that plaintiff’s convictions have been invalidated, this case will be dismissed. A separate order accompanies this Memorandum Opinion.



United States District Judge

Date: May 30, 2017

APPENDIX (A)

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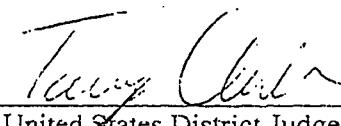
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Keith Bryan Webb-El,)
Plaintiff,)
v.) Case: 1:17-cv-01111 Jury Demand
Thomas R. Kane *et al.*,) Assigned To : Unassigned
Defendants.) Assign. Date : 6/9/2017
) Description: Pro Se Gen. Civil (F Deck)

ORDER

For the reasons stated in the accompanying Memorandum Opinion, it is
ORDERED that plaintiff's application to proceed *in forma pauperis* [Dkt. # 2] is
GRANTED; it is further
ORDERED that pursuant to 28 U.S.C. § 1915A(b)(1), this case is DISMISSED without
prejudice.¹

This is a final appealable Order.


United States District Judge

Date: May 30, 2017

¹ Plaintiff is advised that a dismissal for failure to state a claim qualifies as a strike under 28 U.S.C. § 1915(g), which limits a prisoner's ability to proceed *in forma pauperis* in federal court when certain conditions are satisfied.

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-5159

September Term, 2017

1:17-cv-01111-UNA

Filed On: April 18, 2018

Keith B. Webb-El,

Appellant

v.

Thomas R. Kane, Director, U.S. Department
of Justice Federal Bureau of Prisons, Central
Office, et al.,

Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BEFORE: Henderson and Katsas, Circuit Judges, and Ginsburg, Senior
Circuit Judge

JUDGMENT

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing, and the motion to appoint counsel, the motion for a temporary restraining order, and the motion to produce a superseding indictment, it is

ORDERED that the motion to appoint counsel be denied. In civil cases, appellants are not entitled to appointment of counsel when they have not demonstrated sufficient likelihood of success on the merits. It is

FURTHER ORDERED that the motion to produce a superseding indictment be denied. It is

FURTHER ORDERED AND ADJUDGED that the district court's June 9, 2017 order be affirmed. The district court correctly concluded that appellant's claim is barred

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-5159

September Term, 2017

by Heck v. Humphrey, 512 U.S. 477, 487 (1994) (When a criminal defendant seeks damages in a § 1983 suit, “the district court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated.”). See Williams v. Hill, 74 F.3d 1339, 1340-41 (D.C. Cir. 1996) (holding that Heck applies to actions for damages against federal officials). Appellant claims, in essence, that he is entitled to damages because his conviction and confinement violate his constitutional rights. If he were to succeed on those claims, it “would necessarily imply the invalidity of his conviction or sentence.” Heck, 512 U.S. at 487. He has not demonstrated that his “conviction or sentence has already been invalidated.” Id. It is

FURTHER ORDERED that the motion for a temporary restraining order be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Ken Meadows
Deputy Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-5159

September Term, 2017

1:17-cv-01111-UNA

Filed On: July 17, 2018

Keith B. Webb-El,

Appellant

v.

Thomas R. Kane, Director, U.S. Department
of Justice Federal Bureau of Prisons, Central
Office, et al.,

Appellees

BEFORE: Henderson and Katsas, Circuit Judges, and Ginsburg, Senior
Circuit Judge

ORDER

Upon consideration of the petition for rehearing, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Ken Meadows
Deputy Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-5159

September Term, 2017

1:17-cv-01111-UNA

Filed On: July 17, 2018

Keith B. Webb-El,

Appellant

v.

Thomas R. Kane, Director, U.S. Department
of Justice Federal Bureau of Prisons, Central
Office, et al.,

Appellees

BEFORE: Garland, Chief Judge, and Henderson, Rogers, Tatel, Griffith,
Kavanaugh, Srinivasan, Millett, Pillard, Wilkins, and Katsas, Circuit
Judges, and Ginsburg, Senior Circuit Judge

ORDER

Upon consideration of the petition for rehearing en banc, and the absence of a
request by any member of the court for a vote, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Ken Meadows
Deputy Clerk

Circuit Judge Kavanaugh did not participate in this matter.

**Additional material
from this filing is
available in the
Clerk's Office.**