



(stating that an attack on the constitutionality of the statute under which a defendant was convicted and sentenced is properly pursued by motion under 28 U.S.C. § 2255). Such a motion must be filed in the court which imposed the sentence, and the plaintiff may avoid this process only if the remedy is found to be inadequate or ineffective. *See* 28 U.S.C. § 2255(e). This district is the appropriate forum for adjudication of the claim because plaintiff was tried, convicted, and sentenced in the Western District of Pennsylvania.

Plaintiff's claim for monetary damages cannot proceed either. In *Heck v. Humphrey*, 512 U.S. 477 (1994), the Supreme Court held that:

[I]n order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus . . . .

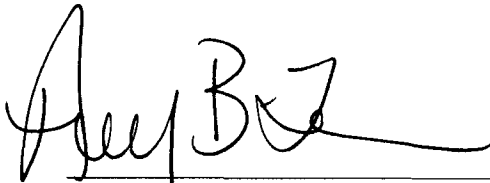
*Id.* at 486-87 (footnote omitted); *accord White v. Bowie*, 194 F.3d 175 (D.C. Cir. 1999) (table).

Plaintiff does not show that his confinement has been invalidated, and his "claim for damages bearing [a] relationship to a conviction or sentence that has *not* been so invalidated is not cognizable under § 1983." *Id.* at 487 (emphasis in original).

The Court will dismiss the complaint. An Order accompanies this Memorandum Opinion.

DATE:

2/7/12

  
United States District Judge