

FILED

3/16/2021

Clerk, U.S. District & Bankruptcy
Court for the District of Columbia

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

MICHAEL R. SPENGLER,

Petitioner,

v.

ATTORNEY GENERAL OF
THE UNITED STATES,

Respondent.

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Civil Action No. 20-2345

MEMORANDUM OPINION

This matter is before the Court on petitioner’s application to proceed *in forma pauperis* and his *pro se* civil petition for a writ of mandamus.

The petitioner allegedly “was injured in his business” when individuals “com[m]ercially burglarized [his] business locations” in California. *See* Pet. at 2. Consequently, petitioner states, these individuals “seized control of [petitioner’s] bank accounts” and other of the businesses’ assets, and “used them to facilitate . . . fraud” and to commit other unlawful acts including conspiracy and forgery. *Id.* Petitioner “places no blame on the [respondent],” and he “is not suing [respondent].” *Id.* at 3. He only asks the Attorney General “to intervene by way of civil & criminal investigative means & action[.]” *Id.*

The Court cannot grant the relief petitioner seeks, as “a writ of mandamus is not available to compel discretionary acts.” *Cox v. Sec’y of Labor*, 739 F. Supp. 28, 30 (D.D.C. 1990) (citing cases). The decision to investigate a particular matter or to prosecute a particular case is left to the Executive Branch of the government, not the judiciary. *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985) (noting that “an agency’s decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency’s absolute discretion”);

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”).

The Court will grant petitioner’s application to proceed *in forma pauperis* and dismiss without prejudice the petition and this civil action. An Order consistent with this Memorandum Opinion is issued separately.

/s/
AMIT P. MEHTA
United States District Judge

DATE: March 16, 2021