

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

LUTHER WOODS,

Plaintiff,

v.

CASE NO. 6:06-cv-1556-Orl-31DAB

UNITED STATES OF AMERICA,

Defendant.

ORDER

Plaintiff submitted a typed petition (Doc. No. 1, filed October 5, 2006) to this Court which appears to challenge his conviction; however, he specifically states that he is not proceeding under 28 U.S.C. § 2255.¹ Plaintiff contends that the federal statute under which he was convicted was “never enacted by Congress in accordance to Article 1, § 7 of the Constitution, and Title 1, USCS §§ 106a and 112.” (Doc. No. 1 at 2.) He seeks “immediate release from this illegal detainment by the U.S. Attorney’s Office.” *Id.* at 4.

Plaintiff cites 18 U.S.C. § 4001(a) and 28 U.S.C. § 1331 as the statutory basis for this Court’s jurisdiction over this matter. However, neither of these provisions grants this Court the authority to order Plaintiff’s release from custody. According, it is

Accordingly, it is now **ORDERED AND ADJUDGED:**

1. This case is hereby **DISMISSED** without prejudice.

¹The Court notes that Plaintiff’s earlier § 2255 motion was denied with prejudice. *See* Case Number 6:03-cv-1730-Orl-19KRS, Doc. No. 28, filed June 9, 2005. Furthermore, the Eleventh Circuit Court of Appeals denied Plaintiff’s request for a certificate of appealability. *Id.* at 35. Thus, it appears that this case is an attempt to avoid the restrictions against second or successive applications for relief. *See* 28 U.S.C. §§ 2244 and 2255.

2. The Clerk of the Court is directed to close this case.

DONE AND ORDERED at Orlando, Florida this 16th day of October, 2006.

Copies to:
sa 10/16
Luther Woods



GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE