UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ROBERT SMALLWOOD, Plaintiff, v. DAN AARON POLSTER, U.S. District Judge, Defendant.	)	CASE NO. 1:14 CV 2110 JUDGE PATRICIA A. GAUGHAN <u>MEMORANDUM OF OPINION AND ORDER</u>

On September 23, 2014, Plaintiff *pro se* Robert Smallwood, an inmate at the Victorville Federal Correctional Complex, filed this civil rights action against United States District Judge Dan Aaron Polster. Plaintiff alleges in the Complaint that he is incarcerated as a result of convictions in the United States District Court, but asserts the Court lacked jurisdiction to prosecute him.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; *Siller v. Dean*, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000).

Plaintiff challenges the validity of his conviction and resulting confinement. The Supreme Court has held that, when a prisoner challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." *Preiser v. Rodriguez*, 411 U.S. 475, 501 (1973). Further, absent allegations that criminal proceedings

terminated in plaintiff's favor or that a conviction stemming from the asserted violation of his rights was reversed, expunged by executive order, declared invalid by a state tribunal, or called into question by a federal court's issuance of a writ of habeas corpus, he may not recover damages for his claim. *Heck v. Humphrey*, 512 U.S. 477, 487 (1994).

Accordingly, this action is dismissed under section 1915A. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
UNITED STATES DISTRICT JUDGE

Dated: 10/14/14