

No. 02-1327 C

(Filed: October 28, 2002)

**KEITH RUSSELL JUDD FOR
PRESIDENT OF USA,**

Plaintiff,

v.

THE UNITED STATES,

Defendant.

ORDER

Plaintiff, incarcerated at the Federal Medical Center in Devens, Massachusetts, acting *pro se*, seeks to proceed *in forma pauperis* to pursue a “Certificate of Innocence” from this Court, alleging the authority of 28 U.S.C. § 2513 (“Unjust Conviction and Imprisonment”). For the reasons stated below, the Court **GRANTS** the motion to proceed *in forma pauperis* but **ORDERS** that the complaint be dismissed for lack of jurisdiction and failure to state a claim on which relief can be granted.

This Court’s jurisdictional authority to grant relief in cases of unjust conviction is prescribed in 28 U.S.C. § 1495, authorizing the Court “to render judgment upon any claim *for damages* by any person unjustly convicted of an offense against the United States and imprisoned.” 28 U.S.C. § 1495 (emphasis added). This jurisdictional authority must be read in conjunction with 28 U.S.C. § 2513, which provides in pertinent part:

Any person suing under section 1495 of this title must allege and prove that: (1) His conviction has been reversed or set aside on the ground that he is not guilty of the offense of which he is convicted, or on new trial and rehearing he was found not guilty of such offense, as appears from the record or certificate of the court setting aside or

reversing such conviction, or that he has been pardoned upon the stated ground of innocence and unjust conviction

28 U.S.C. § 2513(a).

Accordingly, the Court of Federal Claims itself is not empowered to review and overturn convictions or issue certificates of innocence, as Plaintiff seeks here. Rather, this Court’s jurisdiction to render judgment for damages “arises only *after* the challenged conviction has been reversed, on grounds of innocence, by a court of competent jurisdiction or by Presidential pardon.” *Lott v. United States*, 11 Cl. Ct. 852, 853 (1987) (emphasis in original); *see generally Grayson v. United States*, 141 Ct. Cl. 866, 868-69 (1958).

Pursuant to Rule 12(h)(3) of the Rules of the Court of Federal Claims, inasmuch as the Court lacks subject matter jurisdiction to issue a “Certificate of Innocence,” the Clerk of the Court is directed to dismiss Plaintiff’s Complaint.

IT IS SO ORDERED.

EDWARD J. DAMICH
Chief Judge