UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF RHODE ISLAND

VICTOR LOMBARD	)	
	)	
v.	)	C.A. No. 00-502L
	)	
UNITED STATES OF AMERICA	)	

MEMORANDUM AND ORDER

Ronald R. Lagueux, United States District Judge.

In this post conviction case, petitioner seeks the issuance of a Writ of Coram Nobis (often called the "Writ of Error Coram Nobis").

The background facts are as follows:

On May 26, 1993, in CR 93-26L, petitioner pleaded guilty to a 9-count Information charging various narcotic offenses. On August 4, 1993, he was sentenced by this writer to 84 months of incarceration plus 5 years of supervised release. He took an appeal but it was dismissed by the First Circuit Court of Appeals for lack of prosecution. He served his time and on October 16, 1998, he commenced his term of supervised release. On February 2, 2000, petitioner admitted to four violations of the terms of his supervised release, including the selling of cocaine, assault upon his girlfriend, and testing positive for drug use. On April 14, 2000, this Court sentenced defendant to 30 months in prison for those violations, to be followed by 30 months of supervised release. He took no appeal from the sentence imposed for his violations.

He now seeks to invalidate his 1993 conviction and be released from prison. However, the Writ of Coram Nobis is clearly inapplicable to this situation. That common law writ is a writ of error directed to a court for review of its own judgment and must be predicated on errors of fact. Black's Law Dictionary, 7th Ed. p. 338 (1999). Its function is to bring before the court rendering judgment, matters of fact which, if shown at the time of judgment, would have prevented the issuance of the judgment. This writer heard a number of such applications when acting as a Rhode Island Superior Court Judge in the 1970s before Rhode Island had a statutory uniform post conviction remedy procedure. In this case, nowhere in the petition is there a claim that there was error of fact when petitioner was first convicted and sentenced or later when he was sentenced as a violator. Petitioner simply makes a nonsensical argument that the federal drug statutes are illegal and that this Court had no jurisdiction to sentence him in 1993. In addition, this is obviously an attempt to circumvent the requirements of a Writ of Habeas Corpus under Section 2255 and the 1-year statute of limitations applicable thereto.

In short, plaintiff has no entitlement to the issuance of a Writ of Error Coram Nobis or any other post-conviction relief. Therefore, the petition is denied.

It is so ordered.

Ronald R. Lagueux
U.S. District Judge
April 16, 2001