

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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ARTEMIO ALIPIO, )  
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 Plaintiff, )  
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 v. ) Civil Action No. 08-1975 (JR)  
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 DONALD C. WINTER, )  
 Secretary of the Navy, )  
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 )  
 Defendant. )  

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**MEMORANDUM OPINION**

Plaintiff, a Philippine citizen who had worked at a United States Navy facility in the Philippines, filed an employment discrimination complaint arising from the Navy's alleged "fail[ure] to inform [him]" about an opportunity for employees for whom "no retirement deductions were withheld from their salaries" to "make a deposit to the Civil Service Retirement and Disability Fund." Compl. at 1; see *id.* at 3. The Navy rejected the complaint on the ground that plaintiff was an "[a]lien employed in [a] position[] . . . located outside the limits of the United States" and thus was "not covered under Title VII" of the Civil Rights Act of 1964, as amended, see 42 U.S.C. § 2000e *et seq.* Compl. at 2. Quoting the agency's decision, plaintiff explained that:

The dismissal of this [employment discrimination] complaint is not based on the merits of the [plaintiff's]

claim that he should have been covered under the civil service retirement system. The dismissal of the instant case is based solely on the employee's status as a non-U.S. citizen and therefore he has no standing to file a claim of discrimination under the provisions of [29 C.F.R. § 1614.103(c)].

Compl. at 2 (emphasis added); see also 29 C.F.R. § 1614.103(c)(4) (providing that Title VII does not apply to "[a]liens employed in positions . . . located outside the limits of the United States"). An "alien" is "any person not a citizen or national of the United States." 8 U.S.C. § 1101(a)(3).

According to plaintiff, an alien "is not necessarily a person who is not a U.S. citizen." Compl. at 3. Rather, he argues that "the term 'alien' contained in 29 C.F.R. [§] 1614.103(c) is referenced to [the] individual's . . . place of employment." *Id.* Plaintiff claims that he is not an alien because he is "a local national (Filipino citizen)" who was "a direct-hired Federal civilian employee of the United States Government whose duty station . . . [was] located in a foreign country." *Id.* The Court is not persuaded.

Plaintiff makes no argument that he is a citizen or national of the United States. Rather, in describing himself as "a local national (Filipino citizen) employed by the [Navy] whose duty station [was] located outside the United States," Compl. at 3, plaintiff acknowledges his alien status. He is neither a citizen nor a national of the United States, rendering him an alien to whom Title VII does not apply. See *Licudine v. Winter*,

603 F. Supp. 2d 129 (D.D.C. 2009).

The Court concludes that the complaint fails to state a claim upon which relief can be granted, and, accordingly, will dismiss the complaint. An Order accompanies this Memorandum Opinion.

JAMES ROBERTSON  
United States District Judge