

FILED

JAN 12 2007

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Keith Thomas,

Plaintiff,

v.

John Doe, Chief Commissioner of the
Federal Communications Commission,

Defendant.

Civil Action No.

07. 0069

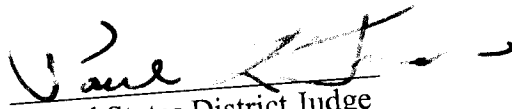
MEMORANDUM OPINION AND ORDER

This matter is before the Court on its initial screening of plaintiff's *pro se* complaint and application to proceed *in forma pauperis*. Plaintiff is a California inmate confined in Sacramento, California. He sues the Chief Commissioner of the Federal Communications Commission ("FCC") pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701 *et seq.*, the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 2671 *et seq.*, and directly under the Constitution. Plaintiff alleges that he wrote to the FCC to obtain "literature to address the matter of telephone, radio and cable-television operation," and that he has been deprived of the "right to obtain a copy of [regulations] through the Freedom of Information Act ("FOIA")." Compl. at 2. The FOIA's "comprehensive scheme" provides the exclusive remedy for obtaining agency records. *Johnson v. Executive Office for United States Attorneys*, 310 F.3d 771, 777 (D.C. Cir. 2002). Pursuant to the screening requirements of 28 U.S.C. § 1915A, the Court therefore dismisses the *Bivens*, FTCA, APA and constitutional claims for failure to state a claim upon

which relief may be granted and hereby construes the action as brought under the FOIA.¹

Accordingly, it is

ORDERED that the Clerk shall file the case as brought pursuant to the Freedom of Information Act and, pursuant to Local Civil Rule 40.5 (a)(3), directly assign the case to Judge Colleen Kollar-Kotelly as related to Civil Action No. 05-2391. A separate Order granting plaintiff's motion for leave to proceed *in forma pauperis* is issued contemporaneously.


United States District Judge

Date: 1/9/04

¹ The Court is required to screen a prisoner's complaint and dismiss it in whole or in part as soon as practicable if, among other grounds, the complaint fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915A(a)-(b).