

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALBERT MORTON,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 07-0751 (JR)
	:	
CARLOS M. GUITERREZ, Secretary,	:	
Department of Commerce,	:	
	:	
Defendant.	:	

MEMORANDUM

The pro se Complaint in this case rambles at length about alleged instances of maltreatment by the Department of Commerce going back to 1989. See Complaint [1] at 1-41. The only claim as to which the plaintiff has properly exhausted his administrative remedies, however, is the claim that certain of his belongings were stored in a library without his knowledge when a room he was occupying was cleaned out in 1999, that when he received a box of those belongings in 2002 certain items were missing, and that the theft, conversion, destruction, or disappearance of these (largely unspecified) belongings amounted to either age discrimination or retaliation for previous complaints. See [3, Exhibits A-G]. As the EEOC correctly determined, that complaint does not state a claim for age discrimination or retaliation.

The essential failing of plaintiff's Complaint is that he cannot show that he was materially harmed by the return of certain of his personal effects in 2002. He might have

complained of having these things taken from him in 1999, but he did not do so (or at least did not do so in the administrative complaint underlying this action). The only harm that he alleges is the storage of his personal effects in a library and the return of his personal effects with certain items missing - items that any rational person would long ago have assumed lost. The plaintiff has not alleged an adverse employment action, or indeed any meaningful harm on which a claim of employment discrimination could stand, and has thus failed to state a plausible claim for employment discrimination or retaliation. See, e.g., Burlington Northern and Santa Fe Ry. Co. v. White, 126 S. Ct. 2405, 2414-15 (2006) ("The anti-retaliation provision protects an individual not from all retaliation, but from retaliation that produces an injury or harm [serious enough to] dissuaded a reasonable worker from making or supporting a charge of discrimination.") (internal quotation omitted).

An separate order accompanies this memorandum.

JAMES ROBERTSON
United States District Judge