

FILED

JUL - 8 2008

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**Clerk, U.S. District and
Bankruptcy Courts**

HERMAN GAFATASI LEMUSU,

Petitioner,

v.

DEPARTMENT OF JUSTICE, *et al.*,

Respondents.

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Civil Action No.

08 1179

MEMORANDUM OPINION

This matter comes before the Court upon review of petitioner's application for leave to proceed *in forma pauperis* and *pro se* petition. The application will be granted but the petition will be dismissed without prejudice.


Petitioner is a federal prisoner who currently is incarcerated at the Federal Correctional Institution in Terminal Island, California. He purports to bring an action under the False Claims Act, *see* 31 U.S.C. § 3730(b), against the Department of Justice, the Federal Bureau of Prisons and its Director, and against individuals who appear to be officials or staff members at FCI Terminal Island. Generally, petitioner alleges that the defendants prepared and sustained false reports regarding disciplinary charges and proceedings against petitioner resulting in his punishment by placement in the Special Housing Unit. The false or fraudulent reports to which petitioner refers do not appear to be claims for payment by the federal government or with federal funds, the type of claims that the False Claims Act is designed to address. *See* 31 U.S.C. § 3729(c) (defining the term "claim" to include a "request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if

the United States Government provides any portion of the money or property which is requested or demanded”); *see also United States v. Intrados/Intern. Mgmt. Group*, 265 F. Supp. 2d 1, 6 (D.D.C. 2002) (stating that the False Claims Act “proscribes only false claims, that is, actual demands for money or property, and false records or statements used to induce such claims”). It does not appear, then, that petitioner states a claim under the False Claims Act.

The Court will dismiss the petition without prejudice pursuant to 28 U.S.C. § 1915A(b)(1). An Order consistent with this Memorandum Opinion will be issued separately on this same date.

Date:

6/30/08


United States District Judge