UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

GUALBERTO ALVER,

Plaintiff,

v.

Civil Action No. 08-1384 (JR)

DONALD C. WINTER,

Secretary of the Navy,

Defendant.

MEMORANDUM OPINION

This matter is before the Court on defendant's motion to dismiss.

Plaintiff's formal employment discrimination claim against the Department of the Navy was dismissed as untimely, and the United States Equal Employment Opportunity Commission ("EEOC") affirmed the decision on administrative appeal. See Compl., Attach. (December 21, 2006 EEOC Denial, Appeal No. 01A54689) at 1-2. On reconsideration of its initial decision, the EEOC also rejected plaintiff's argument that, "based on his citizenship, he is entitled to protection under the discrimination statutes."

Id. at 1.

Plaintiff alleges that he is a dual citizen of the

Philippines and of the United States because he was born in 1933

in the Philippine Islands when the Philippine Islands were a

United States territory. Compl. at 6. In this action, plaintiff asks the Court to "confirm[] [his] having been born a US citizen" such that the United States Navy "allow[s] [him] to have access under [Title VII]." Id. at 7.

In Licudine v. Winter, 603 F. Supp. 2d 129 (D.D.C. 2009), this Court held that a person who, like plaintiff, was born in the Philippine Islands when the Philippines was a United States territory is neither a citizen nor a national of United States citizen. Id. at 135-36. Such a person, then, is an alien to whom Title VII does not apply. Id.

The Court will grant defendant's motion to dismiss. An Order accompanies this Memorandum Opinion.

JAMES ROBERTSON
United States District Judge